



Australian Government
Australian Public Service Commission

Australian Public Service Commissioner **Annual Report 2018–19**

incorporating the Annual Report of the Merit Protection Commissioner



Australian Public Service Commissioner

Annual Report 2018–19

incorporating the Annual Report of the Merit Protection Commissioner



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This document must be attributed as the *Australian Public Service Commissioner Annual Report 2018–19, incorporating the Annual Report of the Merit Protection Commissioner*.

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Australian Government
Australian Public Service Commission



AUSTRALIAN PUBLIC SERVICE COMMISSIONER PETER WOOLCOTT AO

The Hon Greg Hunt MP
Minister Assisting the Prime Minister for the Public Service and Cabinet
Parliament House
Canberra ACT 2600

Dear Minister

I am pleased to present the Australian Public Service Commission Annual Report 2018–19 for the reporting period ending 30 June 2019, as is required by subsection 46(1) of the *Public Governance, Performance and Accountability Act 2013*. I have been the accountable authority for 11 months of the reporting period.

The report has been prepared pursuant to the requirements for annual reports approved by the Joint Committee of Public Accounts and Audit and as prescribed in the *Public Governance, Performance and Accountability Rule 2014* (the Rule).

As the accountable authority, I certify that the Commission has prepared fraud and corruption risk assessments and a fraud and corruption control plan that comply with the requirements of section 10 of the Rule. The Commission has fraud prevention, detection, investigation, reporting and data collection procedures and processes in place that align with the requirements of the Commonwealth Fraud Control Framework 2017.

The Commission has taken reasonable measures to minimise the incidence of fraud within the Commission, and to investigate and recover the proceeds of fraud against the Commission.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Peter Woolcott'.

Peter Woolcott AO
Australian Public Service Commissioner
15 October 2019



Readers

GUIDE

This is the Annual Report from the Commissioner of the Australian Public Service incorporating the Annual Report of the Merit Protection Commissioner for the financial year ending 30 June 2019. The report reviews the purposes and outcomes of both Commissions.

Report structure

This report has been prepared in accordance with the Department of Finance's *Resource Management Guide No. 135 Annual reports for non-corporate Commonwealth entities*, issued in May 2019 and *Resource Management Guide No 138 Commonwealth entities Executive Remuneration Reporting Guide for Annual Reports*, issued in April 2019. The report is divided into nine parts.

PART 1: Overview

This part contains a review of the year by the Australian Public Service Commissioner, including significant achievements, developments, performance and financial performance. This part also provides an overview of the Australian Public Service Commission (the Commission), its role, functions, organisational structure, and outcome and program structure.

PART 2: Annual performance statements

This part reports on the Commission's results against performance criteria as outlined in the *Corporate Plan 2018–19*, *Portfolio Budget Statements 2018–19* and *Portfolio Additional Estimate Statements 2018–19*, and provides an analysis of the factors that contributed to the Commission's performance.

PARTS 3 and 4: Report on financial performance and financial statements

These parts contain discussion and analysis of the Commission's financial performance, audited financial statements and a report by the Auditor-General.

PART 5: Management and accountability

This part provides information about the Commission's governance framework, fraud and risk management arrangements, external scrutiny, workforce planning, human resources and purchasing. It also includes information about workplace health and safety, small business, procurement initiatives, client services, advertising and market research, ecologically sustainable development and environmental performance and grants programs.

PART 6: Appendices

This part provides supplementary information such as resource statements, staffing profile, work health and safety, ecologically sustainable development and environmental performance, advertising, disability reporting and information publication scheme.

PART 7: Reference material

This part includes a list of abbreviations and acronyms, a glossary, the list of requirements under the Rule, and an alphabetical index.

PART 8: Annual Report of the Merit Protection Commissioner

This part comprises the Merit Protection Commissioner’s Annual Report for the financial year ending 30 June 2019.

PART 9: Index



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Part
ONE

Overview

Commissioner's **REVIEW**



Peter Woolcott AO

Australian Public Service Commissioner

The Australian Public Service Commission holds a crucial role within the Australian Public Service (APS). We aim to position the APS workforce for the future by being a valued, credible and trusted partner to the rest of the public service.

The APS is undergoing unprecedented change. There are complex factors behind this including the increasing complexity of issues, the speed of technological change and the expectations of the public. The Government has made clear that it wants the APS to focus on effective delivery, tangible outcomes that make a difference to our country and its future, and a much more people-centric approach. We also need to anticipate the Government's response to the Independent Review of the APS. What this means is that the Commission will continue to play a central and expanding role in ensuring the good governance of the APS and Australia.

In 2018–19, the Commission initiated a range of strategic and operational improvements to prepare for these challenges, including a restructure of the agency to strengthen and better organise our business model. Establishing more cohesive arrangements internally has been crucial, both as to how we work together, and as to how we work with the rest of the APS.

To better understand the Commission's ability to meet current and future challenges, I commissioned an independent capability review of the Commission, led by David Tune AO. The capability review has recently been completed and was extraordinarily valuable in testing the Commission's progress and preparedness. It provided an independent perspective of strengths, capability gaps and areas for future focus.

I am pleased that this review affirmed that the Commission has a dedicated and highly engaged workforce with deep technical expertise and a track record of delivering activities that are highly valued across the Service. There is, however, work to do in ensuring the culture of the organisation is more outward facing and agile if we are to build on these strengths.



The review also acknowledged the challenges of the Commission's current funding model and proposed an approach to develop a more sustainable revenue base in collaboration across the service. I am supportive of exploring opportunities over the next financial year to reduce administrative burden while improving the impact of the Commission's activities across the Service.

We need to position the APS for the next quarter century and the Commission's current areas of focus are leadership, mobility and integrity.

Strong leadership is critical to APS performance and is a key driver in managing change and driving performance. This leadership is exercised at a range of levels in the APS. APS agencies have provided feedback that priority areas for the development of our leaders is around resilience and change management. This feedback recognises the rapidly changing context in which the APS operates.

Additionally, the development of soft skills is vital for senior officials. The Commission is playing a key role in supporting this work. A large number of APS senior leaders are now going through capability and talent assessments to assist us in developing them for current and future roles. And we've continued to deliver high quality leadership courses for APS managers at all levels.

This year, I also amended the Australian Public Service Commissioner's Directions 2016 (the Directions) to enhance performance management within the APS. The amendments to the Directions hold all APS employees accountable for upholding the APS employment principle that requires effective performance from every employee.

We saw again this year an increase in the response rate to the APS employee census, a result that reflects the importance that agencies place on receiving feedback from their employees. The Commission will publicly release its census results at the time of the publication of the State of Service report as a way of promoting both transparency and accountability.

On a more system wide basis, the APS employee census is just one avenue the Commission utilises to recommend improvements on key employment matters such as recruitment, separation and mobility.

Mobility in the public sector is important. The APS must be more permeable and mobile in order to foster diversity of thinking, the contestability of ideas and assist in capability development. In December 2018, I was pleased that the Secretaries Board supported administrative changes to Senior Executive Service (SES) recruitment practices to provide me, as the Australian Public Service Commissioner, with greater visibility of SES movement and capability.

As the Australian Public Service Commissioner, I have a statutory responsibility to uphold the integrity and values of the APS. Integrity should be the embodiment of who we are as public servants. Integrity underpins how we engage with the public, with each other and the Government. It should be at the forefront of our mind in our everyday work.

In 2018–19, the Commission observed an increased demand from APS agencies for ethics awareness support. With a more mobile workforce, moving in and out of the public sector, we need to ensure that our focus on integrity remains strong.

This year the Commission conducted the Values Evaluation Survey with a representative sample of APS employees. Survey data indicated that 86 per cent of employees perceived their agency always expected full compliance with the APS Values. Other survey results identified a number of strengths and areas of potential improvements in relation to the APS Values. These results will form the basis for the Commission's future work with agencies to enhance employees' understanding of their professional obligations.

As you will see in this 2018–19 Annual Report, over the past year we have laid the groundwork for some important work happening now. A whole-of-APS workforce strategy is being developed. A new professional employment model will be another important move towards

developing career pathways within the public service. I am also pleased that the Commission is continuing to actively engaging with countries in our region to support strong public sectors, as well as looking at best practice examples from across the world.

2018–19 signified my first full year as the Australian Public Service Commissioner. I have been continually impressed by the professionalism of Commission staff and the way in which they respond to emerging challenges and opportunities. I am proud to be the Australian Public Service Commissioner and look forward to the contributions the Commission can make to an effective and trusted APS over the coming years.

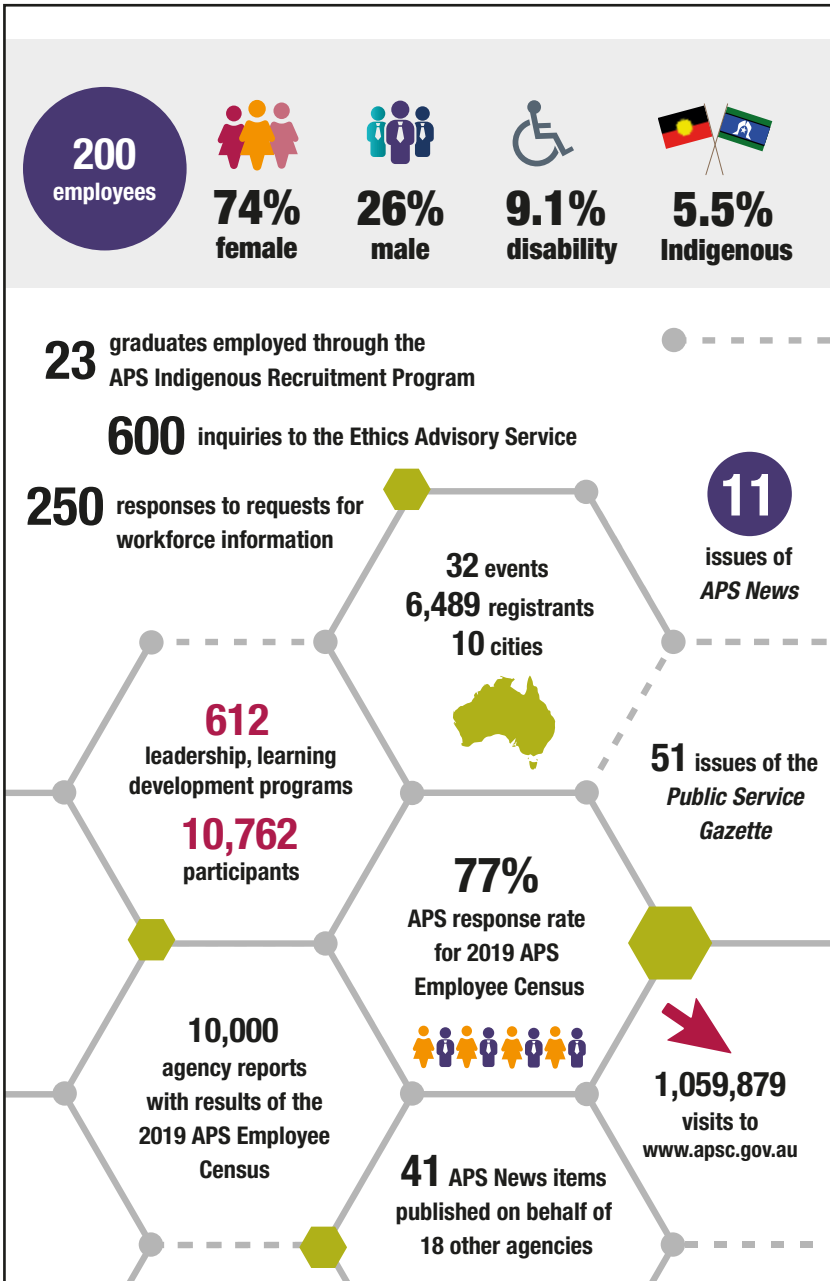


Peter Woolcott AO
Australian Public Service Commissioner
15 October 2019



At a GLANCE

Figure 1: APSC at a glance



About the **COMMISSION**

The Australian Public Service Commission (the Commission) is a non-corporate Commonwealth agency within the Prime Minister and Cabinet portfolio. The Commission's statutory responsibilities, which are detailed in the *Public Service Act 1999* (the Act), include:

- developing, promoting, reviewing and evaluating Australian Public Service (APS) employment policies and practices;
- contributing to learning and development and career management;
- contributing to and fostering leadership in the APS;
- providing advice and assistance on public service matters to agencies; and
- promoting high standards of integrity and conduct in the APS.

The Commission supports two statutory office holders—the Australian Public Service Commissioner (the Commissioner) who is the agency head, and the Merit Protection Commissioner. Their functions are set out in sections 41 and 50 of the Act.

The Australian Public Service Commissioner makes staff available to assist the Merit Protection Commissioner in performing her prescribed functions. The Merit Protection Commissioner's Annual Report follows the appendices to this report.

The Commission also provides secretariat support to the Remuneration Tribunal and the Defence Force Remuneration Tribunal.

This report's financial statements incorporate the activities of the Commissioner, the Merit Protection Commissioner and the two Tribunals.

The Minister

During 2018–19 the Minister changed from the Hon Kelly O'Dwyer MP, Minister for Revenue and Financial Services, Minister for Women and Minister Assisting the Prime Minister for the Public Service, to Senator the Hon Mathias Cormann, Minister for Finance and the Public Service. The current Minister, as of 29 May 2019, is the Hon Greg Hunt MP, Minister for Health and Minister Assisting the Prime Minister for the Public Service and Cabinet.

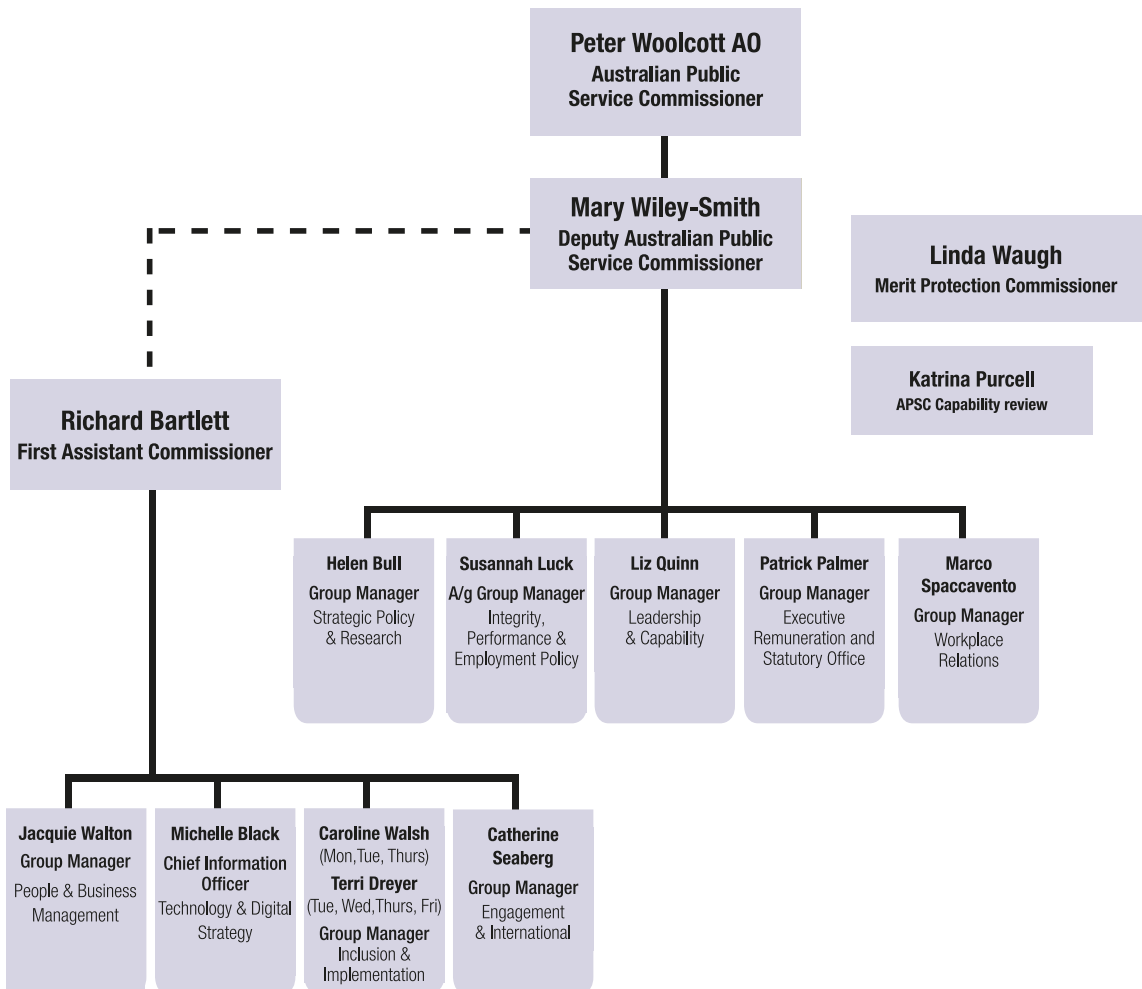
Staff

At 30 June 2019, the Commission had an average staffing level (ASL) of 200 employees.



Organisational STRUCTURE

Figure 2: Organisational structure at 30 June 2019



Executive

LEADERSHIP TEAM



Mr Peter Woolcott AO

Australian Public Service Commissioner

Mr Peter Woolcott AO commenced as the Commissioner on 9 August 2018. Mr Woolcott has had a distinguished career in the Australian Public Service, serving in senior diplomatic positions around the world.

He has served as Australia’s High Commissioner to New Zealand (2016–2017), Ambassador for the Environment (2014–16), Permanent Representative to the UN in Geneva and Ambassador for Disarmament (2010–2014), Ambassador for People Smuggling Issues (2009) and Ambassador to Italy (2004–2007).

Most recently he served as Chief of Staff to the former Prime Minister.

Mr Woolcott was appointed an Officer in the Order of Australia in 2017 for his distinguished service to public administration in the field of international relations, and as a lead negotiator in the non-proliferation and arms control fields.



Ms Mary Wiley-Smith

Deputy Australian Public Service Commissioner

Ms Mary Wiley-Smith commenced as the Deputy Commissioner on 3 September 2018. Ms Wiley-Smith was previously First Assistant Secretary at the Department of the Prime Minister and Cabinet, working on the Independent Review of the APS.

Prior to joining the Review, Ms Wiley-Smith led the Cities Division in the Department of Infrastructure, Regional Development and Cities—responsible for the pioneering of ‘city deals’ in Australia.

Ms Wiley-Smith was previously the Chief Operating Officer for the Department of the Environment and Energy. She led the Strategic Review of the Department of the Environment, and also established its Sustainability, Policy and Analysis Division.



Ms Wiley-Smith has over 25 years in the APS and has a breadth of experience in building workforce capability and driving reform. She has held senior executive roles in the Australian Government leading work on sustainability, climate change, cities and urban policy, energy efficiency, housing affordability and supply, and renewable energy.



Mr Richard Bartlett

First Assistant Public Service Commissioner

Before joining the Commission, Mr Richard Bartlett was First Assistant Secretary, Social Policy Division at the Department of Finance. In this role, Mr Bartlett provided policy and finance advice to government on families, health, housing, community services, Indigenous affairs, aged care, veterans' affairs and government service delivery.

Prior to this, Mr Bartlett held various senior roles at the Department of Finance, including First Assistant Secretary of Industry, Education and Infrastructure Division and First Assistant Secretary of Efficiency, Assurance and Digital Government Division. In these roles, Mr Bartlett provided policy and finance advice to government on education, energy, industry, transport and infrastructure, as well as driving public sector reform and digital transformation initiatives.

Mr Bartlett has also held a range of senior executive roles in the Australian Government at the Department of Health and at the Department of Veterans' Affairs.

Legislation

The Commissioner has powers and functions under the Act and subordinate legislation. The Commission provides policy advice to agencies on the *Maternity Leave (Commonwealth Employees) Act 1973*, the *Long Service Leave (Commonwealth Employees) Act 1976*, and the *Equal Employment Opportunity (Commonwealth Authorities) Act 1987*.

The Remuneration Tribunal and the Defence Force Remuneration Tribunal operate under separate enabling legislation.

Purpose, outcome and program structure

The purpose, planned outcome and corporate goals of the Commission are set out in the Commission's 2018–19 Portfolio Budget Statements (available at www.pmc.gov.au) and the Commission's Corporate Plan 2018–19 (available at www.apsc.gov.au).

The purpose of the Commission is to position the APS workforce for the future.

The Commission's planned outcome is to increase awareness and adoption of best practice public administration by the APS through leadership, promotion, advice and professional development, drawing on research and evaluation (Outcome 1, 2018–19 Portfolio Budget Statements). The Commission works to achieve this through two programs:

- Program 1.1—Australian Public Service Commission
- Program 1.2—Judicial Office Holders' Remuneration and Entitlements.

The Corporate Plan 2018–19 builds on and complements the 2018–19 Portfolio Budget Statements and identifies four corporate goals that reflect the priorities of Program 1.1:

- modernising the employment framework
- shaping the APS workforce
- building workforce capability, and
- promoting integrity.



Reporting on performance

During the 2018–19 financial year, the Commission worked to achieve its purpose, planned outcome and goals by meeting the commitments and performance measures as detailed in the 2018–19 Portfolio Budget Statements and the Corporate Plan 2018–19.

The annual performance statements detail the Commission's achievements during the reporting year and the extent to which the Commission's performance measures were met.

The close links between the 2018–19 Portfolio Budget Statements and the Corporate Plan 2018–19 mean that some of the Commission's performance measures are reflected in both documents. The performance statements identify the source of each performance measure by publication and page number.

Funding and financial performance

The Commission's activities are funded through a combination of appropriation, MOU and fee-for-service revenue. Revenue is generated through the sale of leadership programs, learning and development courses, employment services and international capacity building programs funded through the Department of Foreign Affairs and Trade. Much of this revenue is earned in a competitive market in which agencies choose the source and level of the services they purchase.

In 2018–19, the Commission received \$21.3 million in departmental appropriation funding and \$22.5 million in fee-for-service and Memorandum of Understanding (MOU) revenue.

The operating result for 2018–19 was a deficit of \$2.4 million. This result includes the effects of the government's net cash funding arrangement, whereby depreciation expenses are no longer funded by an appropriation; and the impairment of software. Excluding these factors, the Commission delivered a balanced underlying operating result, through careful management of financial resources.

Payments of \$4.1 million were made from the special appropriation for the Judicial Office Holders' Remuneration and Entitlements administered program.

Departmental expenses were \$2.2 million higher than the budget estimate as a result of additional fee-for-service income generating activities, and the impairment of software. Administered expenses were \$0.1 million lower than the budget estimate.

Table 1 summarises the Commission’s financial performance for 2018–19. It should be read in conjunction with Table A2 (see Appendix A).

Table 1: The APSC’s financial performance summary, 2018–19

Item	Budget estimate (\$ million)	Actual result (\$ million)
Departmental		
Program 1.1—Australian Public Service Commission	43.9	46.1
Total departmental	43.9	46.1
Administered		
Program 1.2—Judicial Office Holders’ Remuneration, Allowances and Entitlements	4.2	4.1
Total administered	4.2	4.1
Total for Outcome 1	48.1	50.2

Part
TWO

Annual
performance
statements

Statement of preparation

I, Peter Woolcott, as the accountable authority of the Australian Public Service Commission (the Commission), present the annual performance statements of the Commission for the period of 1 July 2018 to 30 June 2019, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the Commission, and comply with subsection 39(2) of the PGPA Act.



Peter Woolcott AO

Accountable authority

15 October 2019

Purpose

The Commission's purpose is to position the APS workforce for the future, and is set out in the Corporate Plan 2018–19. The Commission will do this by:

1. Shaping the APS workforce
2. Modernising the employment framework
3. Building workforce capability, and
4. Promoting integrity.

Role

The Commission is a non-corporate Commonwealth agency within the Prime Minister and Cabinet portfolio.

The Commission's statutory responsibilities are detailed in the Act and include:

- developing, promoting, reviewing and evaluating APS employment policies and practices
- contributing to learning and development and career management



- contributing to and fostering leadership in the APS
- providing advice and assistance on public service matters to agencies, and
- promoting high standards of integrity and conduct in the APS.






The Commission also provides policy and secretariat support to the Remuneration Tribunal and the Defence Force Remuneration Tribunal.

Reporting approach

In response to the PGPA Act, this section presents a detailed review of the Commission's performance in 2018–19. This includes delivering on the key performance indicators for Programs 1.1 and 1.2 in the 2018–19 Portfolio Budget Statements, and the strategic priorities, deliverables and objectives described in the Corporate Plan 2018–19.

Relationship between the Commissions' 2018–19 Portfolio Budget Statements and the Corporate Plan 2018–19.

Figure 3: 2018–19 Portfolio Budget Statements mapped to the Corporate Plan 2018–19

CORPORATE PLAN		PORTFOLIO BUDGET STATEMENTS				
PURPOSE	STRATEGIC PRIORITIES	PROGRAMS	PERFORMANCE CRITERIA	OUTCOME		
 <p>Shaping the APS workforce</p> <p>Objectives</p> <ul style="list-style-type: none"> • Support the Government's Reform Agenda • Foster an APS workforce that reflects the diversity of the Australian population • Support and guide workforce planning capability and practices • Improve the quality of talent management practices across the APS 	<p><i>To position the APS workforce for the future</i></p>	<p>Program 1.1</p> <p>Australian Public Service Commission</p> <p>This program contributes to the outcome through building capacity, driving productivity and performance, streamlining processes and reducing red tape and promoting integrity and accountability among the APS.</p>	<ul style="list-style-type: none"> • Shape the APS workforce • Modernise the APS employment framework to reflect changes to the nature of work • Build workforce capability in the APS • Promote a high standard of integrity in the APS. 	<p>Increased awareness and adoption of best practice public administration by the public service through leadership, promotion, advice and professional development, drawing on research and evaluation.</p>		
		<p> Modernising the employment framework</p> <p>Objectives</p> <ul style="list-style-type: none"> • Partner with agencies to achieve compliance with the Government's bargaining policies • Work with and influence agencies to modernise the APS employment framework and practices • Lead effective reform of the APS employment management policies 			<p>Program 1.2</p> <p>Judicial Office Holders' Remuneration and Entitlements</p> <p>This program contributes to the outcome through facilitating the payment of remuneration, allowances and entitlements to Judicial Office Holders.</p>	<ul style="list-style-type: none"> • Meet all requirements for the budgeting and reporting of Judicial Office Holders remuneration and entitlements.
		<p> Building workforce capability</p> <p>Objectives</p> <ul style="list-style-type: none"> • Build digital capability in the APS by partnering with the Digital Transformation Agency • Strengthen leadership and core capabilities by providing contemporary learning solutions • Support agencies to improve their workplace relations skills and performance • Promote best practice workforce planning to encourage effective monitoring and reporting on APS capability 				
		<p> Promoting integrity</p> <p>Objectives</p> <ul style="list-style-type: none"> • Promote a high standard of integrity across the APS • Evaluate agency approaches to incorporate and uphold the APS values 				
<p> Foundational objectives</p> <p>Monitor and report on the APS workforce to inform workforce policies and practices. Work with other governments on matters relating to public sector workforce management.</p>						



Strategic priority 1:

SHAPING THE APS WORKFORCE

Source of criteria: 2018–19 Portfolio Budget Statements, page 144; Corporate Plan 2018–19, page 7, 10 and 11.

Table 2: Results for objective 1.1

OBJECTIVE 1.1—SUPPORT THE GOVERNMENT'S REFORM AGENDA			
Deliverable	Key Performance Indicator	2018–19 results	Partially Achieved
Whole-of-APS workforce strategy is developed in partnership with APS agencies and reflects the future needs of the APS.	Strategy endorsed by the Secretaries Board by the end of June 2019.	Research and analysis to inform a whole-of-APS workforce strategy was undertaken. The strategy continues to be developed and will be informed by the outcomes of the Independent Review of the APS.	
Whole-of-APS workforce strategy and APS agencies' role in implementation is clearly communicated to APS agencies.	APS agencies demonstrate current or planned initiatives that support the whole-of-APS workforce strategy.	Finalisation of the whole-of-APS workforce strategy has been delayed pending the outcomes of the Independent Review of the APS.	

Table 3: Results for objective 1.2

OBJECTIVE 1.2—FOSTER AN APS WORKFORCE THAT REFLECTS THE DIVERSITY OF THE AUSTRALIAN POPULATION			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Evidence-based learning and guidance material that supports women progressing to leadership positions.	Feedback indicates learning and guidance material is useful.	Three evidence-based reports and guidance materials were developed and published to support women progressing to leadership positions in the APS.	
Affirmative measures are used for entry and middle management level recruitment programs.	Increase in the representation of Aboriginal and Torres Strait Islander peoples and people with disability in the APS.	<p>There was a positive shift from the previous year in the number of vacancy notices published in the APS Employment Gazette applying the s26 Affirmative Measure-Indigenous Employment and s27 Affirmative Measure Disability provisions of the Commissioner's Directions 2016.</p> <p>Representation of Aboriginal and Torres Strait Islander employees in the APS has improved, and representation of employees with disability has been stable.</p> <p>At 30 June 2019, Aboriginal and Torres Strait Islander employees represented 3.5 per cent of the APS workforce, while employees with disability represented 3.7 per cent.</p> <p>Data Source: APS Employment Database, 30 June 2019</p>	
Develop a whole-of-APS Inclusion Strategy in partnership with APS agencies	Development approach endorsed by the Secretaries Equality and Diversity Council (SEDC).	<p>The Commission worked with APS agencies to prepare a timeline and strategic approach for developing a whole-of-APS Inclusion Strategy.</p> <p>The Commission progressed within the reporting period, with the approach being endorsed at an SEDC meeting on 4 July 2019.</p>	

Table 4: Results for objective 1.3

OBJECTIVE 1.3—SUPPORT AND GUIDE WORKFORCE PLANNING CAPABILITY AND PRACTICES			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Commission-facilitated activities to promote sharing of best practice in APS workforce planning.	Feedback from attendees indicates value and relevance.	Surveys recorded satisfaction rates of 75 per cent or higher for a range of activities the Commission coordinated to bring together APS workforce planning practitioners, as well as practitioners from state and territory governments.	
Relevant HR metrics that assist in strategic workforce planning and benchmarking are provided to APS agencies within agreed timeframes.	Feedback from key stakeholders demonstrates a high level of satisfaction with the accessibility, quality and timeliness of advice, planning tools and data provided.	An evaluation survey found more than 80 per cent of reported satisfaction with the APS employee census reporting products. Many agencies indicated they routinely use a number of Commission products and information portals to assist in their workforce planning and to build capability within their agencies. Across 2017–18 and 2018–19 fewer than 7 agencies report not using any Commission products. Positive feedback has been received on the range of HR metrics the Commission provided APS agencies. These metrics assisted agencies in strategic workforce management, including workforce statistics and trends; to form opinions on workforce management practices and remuneration; and to build capability.	

Table 5: Results for objective 1.4

OBJECTIVE 1.4—IMPROVE THE QUALITY OF TALENT MANAGEMENT PRACTICES ACROSS THE APS			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Effective Secretaries and Deputy Secretaries Talent Councils.	Feedback from key stakeholders indicates the Talent Councils are supported to operate effectively.	The Talent Councils continued to focus on identifying and developing talent at senior levels of the APS. Feedback from Talent Council members indicated the Commission is continuing to provide appropriate support for the effective operation of the Talent Councils. In 2018–19, the Secretaries Talent Council committed to assessing the entire pool of Band 3 senior executive officers, signalling its intent to build the capability of this cohort of senior leaders, as well as the value of the insights gained from the talent assessments already delivered.	
Updated tools and reference material promoting better practice are available to APS agencies.	Feedback from agencies indicates that tools and guidance material are useful.	Tools and guidance were updated by the Commission in collaboration with agencies. The Commission is currently piloting an approach that builds and tests supporting tools and guidance to enable agencies to better manage their executive talent, as part of developing agencies' talent management practices for Executive Level 2 officers.	

Performance analysis—strategic priority 1: Shaping the APS workforce

Support the Government's Reform Agenda

The Commission continues to develop the whole-of-APS workforce strategy, with engagement across the APS. The strategy will be informed by the Independent Review of the APS and the Government's response, to ensure the final strategy fully supports the Government's reform agenda.



During the year information and data was provided to the Independent Review of the APS.

In addition, the Commission partnered with the Department of Finance's Government Business Analytical Unit to better understand the key drivers of productivity in the APS.

Foster an APS workforce that reflects the diversity of the Australian population

Progress towards this objective has been made through a range of activities. The Commission:

- hosted the 2018 APS Diversity and Gender Equality Awards to acknowledge and celebrate leadership in inclusion initiatives and improving gender equality
- provided the Secretariat function for the Indigenous Senior Executive Service (SES) Network, supporting cross-service initiatives to improve representation of Indigenous employees in more senior roles in the APS
- delivered programs and activities under an MoU with agencies to improve capability and strengthen Indigenous employment outcomes including:
 - delivery of the Indigenous Graduate Pathway centralised recruitment for university graduates
 - piloting the excELerate career development program for high potential APS level 5/6 Indigenous employees, and
 - coordinating opportunities for agencies to participate in Torres Strait Islander cross-cultural learning through workshops and interagency collaboration.

The Commission developed and published the following evidence-based reports and guidance materials to support women progressing to leadership positions in the APS:

- 'Workplace flexibility: a best practice guide for Australian Public Service Agencies
- 'Are we there yet?': progress of the Australian Public Service Gender Equality Strategy, and
- 'Are we there yet?' fact sheets for agencies.

The Commission also published "Dismantling Barriers: Inclusive Recruitment Quick Reference Guide" to improve the employment opportunities for people with disability through better recruitment processes in APS agencies.

In addition, the Commission provided the Secretariat function for the APS Disability Champions Network, supporting the exchange of ideas and cross-agency engagement at the SES level to improve employment opportunities for people with disability.

The Commission progressed the GradAccess Pilot Program and the NextStep Traineeship Pilot Program, aimed to increase the numbers of employees with disability.

Employment data at 30 June 2019 indicates the following representation in the APS:

- indigenous Australians, 3.5 per cent
- people with disability, 3.7 per cent
- non-English speaking background (NESB) immigrants, 5.4 per cent
- immigrant children with NESB parents, 9.1 per cent, and
- women, 59.7 per cent.

Support and guide workforce planning capability and practices

The Commission coordinated a variety of activities aimed at supporting and guiding workforce planning capability. These activities brought together workforce planning practitioners from across the APS and state and territory governments. Activities included three large-scale Workforce Planning Community of Practice events, along with smaller events focused on the APS Job Family Model, the Commission's Workforce Planning Guide and a targeted approach to building workforce planning capability in smaller APS agencies. Post-event surveys indicated a 75 per cent or higher satisfaction rate.

The Commission also coordinated a virtual community of nearly 300 workforce planning professionals from across Australia, connected by the cross-organisation digital collaboration platform 'GovTeams'. A steady increase of attendees at events and a growing GovTeams community indicates the value of these forums to workforce planning professionals.

The Commission continued to consult with APS agencies to ensure the collection and reporting of workforce data met operational needs. Evaluation focus groups on the 2018 APS employee census informed the development and delivery of the 2019 census.

Consultation and feedback received indicates that workforce data provided in various formats informs strategic workforce management across the APS. The Commission received positive stakeholder feedback about the following HR metrics that were provided to assist agencies in strategic workforce management:

- a biannual APS data release summarising a range of workforce data
- static and trend workforce data through the APS Employment Database internet interface (known as APSEDii), which was accessed approximately 245 times per month
- employment opinion data measuring employee feedback on leadership, engagement, innovation, collaboration and other workforce management practices
- the 2017–18 State of the Service Report, describing changing APS workforce trends and workforce capability, and
- the 2018 Remuneration Report, analysing agencies' annual remuneration data and benchmarking this to APSwide data.

These were all provided within agreed timeframes.



Improve the quality of talent management practices across the APS

Talent management practices across the APS have continued to improve. The Commission is currently supporting assessment processes of senior executives across the APS, including 37 SES Band 3 officers, 36 SES Band 2 officers, and 67 SES Band 1 officers.

The Commission has also commenced a pilot program on behalf of the APS, which builds an approach, guidance and tools for agencies to identify and develop talented Executive Level 2 officers.

The Secretaries Talent Council recently decided to extend the detailed assessment process, previously used to provide insights into identified SES Band 3 officers, across the Band 3 cohort.

Work is underway to evaluate the impact of the current talent initiatives.

The responsibilities of APS and SES officers can be found in the APS Work Level Standards, published on the Commission's website, www.apsc.gov.au.



Strategic priority 2:

MODERNISING THE EMPLOYMENT FRAMEWORK

Source of criteria: 2018–19 Portfolio Budget Statements, page 144; Corporate Plan 2018–19, page 7 and 12.

Table 6: Results for objective 2.1

OBJECTIVE 2.1—PARTNER WITH AGENCIES TO ACHIEVE COMPLIANCE WITH THE GOVERNMENT’S BARGAINING POLICIES			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
New agreements made are compliant with Government policy.	Feedback from agencies is positive about the timeliness and quality of advice.	Agencies were surveyed to measure satisfaction with the advice and guidance given to them by the Commission regarding the Government’s Workplace Bargaining Policy 2018, enterprise bargaining and determinations issued under Section 24(1) of the Act. Over 85 per cent of agencies were satisfied with the responsiveness, comprehensiveness and clarity of the advice provided, and the professionalism and helpfulness of the Commission’s workplace relations staff.	
Advice and support about more contemporary employment practices made available to agencies and managers.	Feedback from stakeholders indicates an increased knowledge and confidence in using more contemporary employment practices.	The Commission conducted regular forums with its stakeholders to facilitate discussion on issues arising in workplace bargaining. This included a refresher session on the Workplace Bargaining Policy 2018, attended by 46 practitioners from 29 agencies. A survey of key stakeholders indicated satisfaction with the advice given on the policy and the bargaining process.	

Table 7: Results for objective 2.2

OBJECTIVE 2.2—WORK WITH AND INFLUENCE AGENCIES TO MODERNISE THE APS EMPLOYMENT FRAMEWORK AND PRACTICES			
Deliverable	Key Performance Indicator	2018–19 results	Partially Achieved
Review of the <i>Maternity Leave (Commonwealth Employees) Act 1973</i> and provide options for reform to the Minister.	Review completed on time and endorsed by the Minister.	The Workplace Relations Group conducted preliminary research and made arrangements in preparation for a review of the <i>Maternity Leave (Commonwealth Employees) Act 1973</i> .	
Information is made available to simplify agency employment practices.	Feedback from agencies indicates confidence in using contemporary employment practices.	Stakeholder feedback indicated that agencies are becoming more innovative in their recruitment practices, both in how jobs are advertised and candidates are assessed. These practices included online testing of candidates and ensuring selection criteria were written in plain English.	



Table 8: Results for objective 2.3

OBJECTIVE 2.3—LEAD EFFECTIVE REFORM OF THE APS EMPLOYMENT MANAGEMENT POLICIES			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Recommend improvements on key employment matters with a focus on recruitment, separation and mobility.	Recommendations are supported by Secretaries Board.	In December 2018, the Secretaries Board supported administrative changes to SES recruitment practices, to provide the Commissioner with greater visibility of SES movements and capability. The Commissioner's Directions 2016 were amended to enhance performance management within the APS. The amendments to the Directions came into effect on 25 July 2019.	

Performance analysis—strategic priority 2: Modernising the employment framework

Partner with agencies to achieve compliance with the Government's bargaining policies

The Commission provided advice and support to agencies to enable them to make workplace relations arrangements consistent with the Government's *Workplace Bargaining Policy 2018*. By providing thorough policy, legislative, drafting and best practice advice, the Commission was able to guide and assist agencies towards policy compliance.

Throughout 2018–19, the Commission supported agencies that were either negotiating new enterprise agreements with employees, or preparing for the agency head to issue a remuneration determination for annual wage increases under Section 24(1) of the Act.

Between 1 July 2018 and 30 June 2019 employees in the APS voted in favour of 40 enterprise agreements, and 25 agencies issued remuneration determinations in lieu of bargaining. All of these agreements and determinations were consistent with the Government's *Workplace Bargaining Policy 2018*.

The Commission conducted regular forums with APS workplace relations practitioners to lead and facilitate discussion on issues arising in workplace bargaining. This included a refresher session on the *Workplace Bargaining Policy 2018*, attended by 46 practitioners from 29 agencies.

The Commission is committed to the ongoing improvement of the guidance provided to Commonwealth agencies regarding Government policy. A survey of agencies indicated:

- 91 per cent of respondents found the responsiveness of advice and guidance to be 'Very Good' or 'Good', down from 96 per cent in 2017–2018
- 87 per cent of respondents found the comprehensiveness of advice and guidance to be 'Very Good' or 'Good', up from 83 per cent in 2017–2018
- 87 per cent of respondents found the clarity of advice and guidance to be 'Very Good' or 'Good', up from 83 per cent in 2017–2018, and
- 91 per cent of respondents found the professionalism of staff to be 'Very Good' or 'Good'. This is consistent with results from 2017–2018

The survey also highlighted a small number of areas for improvement such as increasing the Commission's understanding of non-APS agencies. The Commission will continue to pursue opportunities to improve in these areas.

Overall, the survey results demonstrate that agencies were satisfied with advice from the Commission on the policy and the bargaining process.

Work with and influence agencies to modernise the APS employment framework and practices

The Commission continued to review and update guidelines for agencies on improved, streamlined employment practices that can be implemented within the existing legislative framework. The Commission published new material on sharing the results of recent recruitment action for a similar vacancy (sharing merit lists), and on using one process to fill many roles (bulk recruitment).

Lead effective reform of the APS employment management policies

Following the support of the Secretaries Board in December 2018, the Commissioner now has greater visibility of SES officer movement and capability. Specifically, the Commissioner has advance notice of any intention to fill an SES Band 3 officer vacancy and agencies must provide the Commissioner with details of all SES officer recruitment outcomes. The requirement for agencies to review appropriate merit lists that may already exist as the result of recent recruitment action has been strengthened. Further, it is now mandatory that the Commissioner approves his representative on all SES officer selection panels.

This year, the Commission continued to explore options for streamlining the management of the Government's cap on SES officer numbers.

Following consultation with the Secretaries Board, the Commissioner's Directions 2016 were updated to include greater obligations for managers to support effective performance. The amendments explicitly set out the expectations that agencies proactively identify and develop high potential APS employees and engage in proactive career management conversations. The amendments also extend the responsibility for achieving and sustaining effective performance from agency heads to supervisors and employees. These amendments will assist agencies to maintain a high performance culture across the APS.

In consultation with Deputy Secretaries and agency representatives, the Commission also developed a guidance document to support agencies in meeting the intent of the amended Directions.



Strategic Priority 3:

BUILDING WORKFORCE CAPABILITY

Source of criteria: 2018–19 Portfolio Budget Statements, page 144; 2018–19 Corporate Plan, page 7 and 13.

Table 9: Results for objective 3.1

OBJECTIVE 3.1 – BUILD DIGITAL CAPABILITY IN THE APS BY PARTNERING WITH THE DIGITAL TRANSFORMATION AGENCY			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Deliver and refine the Leading Digital Transformation program.	Evaluation data indicates participants are building their digital leadership capability.	244 participants attended the Leading Digital Transformation program for SES officers. Evaluation data showed that 98 per cent of participants agreed or strongly agreed the program was a valuable use of their time and money. Participants also indicated it significantly increased their digital capability (self-reported increase of 47 percentage points). Evaluation data also revealed that participants implemented more than two-thirds of the actions they identified during the program within six months.	
Digital capability Learning Design Standards are available for agency use.	Feedback indicates Learning Design Standards are useful and being applied in the workplace.	The Commission developed and built 18 Learning Design Standards (17 have been released and one is being reviewed) reflecting agency priorities and is reviewing an additional standard prior to public consultation. Feedback indicates agencies are now using the standards to develop career pathways for digital specialist roles.	

Table 10: Results for objective 3.2

OBJECTIVE 3.2 – STRENGTHEN LEADERSHIP AND CORE CAPABILITIES BY PROVIDING CONTEMPORARY LEARNING SOLUTIONS			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Development and roll out of contemporary leadership development solutions.	Evaluation and assessment data indicates a positive shift in capability.	The Commission delivered 32 leadership programs for nearly 500 participants from SES Band 2, SES Band 1 and Executive Level 2 officers. Evaluation data shows positive capability shifts and high perceptions of value in these programs.	

Table 11: Results for objective 3.3

OBJECTIVE 3.3 – SUPPORT AGENCIES TO IMPROVE THEIR WORKPLACE RELATIONS SKILLS AND PERFORMANCE			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Deliver the Workplace Relations Capability Program.	Evaluation data indicates a positive shift in capability.	Seven small group capability sessions were conducted, attended by 168 Commonwealth workplace relations and human resource practitioners. A participant survey showed that the majority of respondents found the content relevant and helpful in their role, and were also interested in participating in the program in the future.	

Table 12: Results for objective 3.4

OBJECTIVE 3.4—PROMOTE BEST PRACTICE WORKFORCE PLANNING TO ENCOURAGE EFFECTIVE MONITORING AND REPORTING ON APS CAPABILITY

Deliverable	Key Performance Indicator	2018–19 results	Achieved
Facilitate workforce planning activities to share best practice.	Feedback from participants indicates value and relevance; and improved workforce planning practices in agencies.	The Commission coordinated a variety of activities aimed at supporting and guiding workforce planning capability and sharing best practice. These activities brought together workforce planning practitioners from across the APS, as well as from state and territory governments. Satisfaction rates were 75 per cent or higher, based on feedback collected through post-event surveys. Knowledge transfer—through sharing of best practices and lessons learned, and through peer coaching and support—is improving workforce planning capability and practice in participating agencies.	
Facilitate workforce planning activities to share best practice.	Agency feedback indicates that minimum workforce metric reporting is used for workforce planning and building capability.	In the 2018 APS agency survey, agencies indicated they used a number of the Commission’s products and information portals to develop workforce planning and build capability. These products draw on employment, opinion and remuneration data collected, analysed and released by the Commission.	

Performance analysis for Strategic priority 3: Building workforce capability

Build digital capability in the APS by partnering with the Digital Transformation Agency

Initiatives developed by the Commission, in partnership with Digital Transformation Agency, continue to build digital capability in the APS. The Leading Digital Transformation program has been delivered to nearly 10 per cent of SES Band 1 officers, and other jurisdictions are now looking to access the program material to assist in building their digital capability.

The Commission developed and built 18 Learning Design Standards (17 have been released and one is being reviewed) reflecting agency priorities. Feedback indicates agencies are now using the standards to develop career pathways for digital specialist roles.

Strengthen leadership and core capabilities by providing contemporary learning solutions

Leadership and core capability development solutions continued to be provided to the APS to build capability. In addition, the Commission responded to emerging needs by working with agencies to understand their requirements and build new solutions to address capability gaps.



Support agencies to improve their workplace relations skills and performance

The Commission is committed to partnering with agencies to improve capability in workplace relations. In 2018–19, regular small group capability development sessions were conducted. The sessions covered topics such as managing enterprise bargaining, alternatives to bargaining, refreshing policies and procedures, individual flexibility arrangements, and supporting employees affected by family and domestic violence.

A survey of participants indicated an 82 per cent overall satisfaction level. In addition:

- 95 per cent of respondents were interested in further involvement with the capability program
- 94 per cent of respondents found the sessions relevant to their work as a public sector workplace relations practitioner, and
- 85 per cent of respondents said they were able to apply what they had learned to their role.

The survey showed that participants leave the capability sessions better informed about workplace relations, and they have improved workplace relations skills and performance in the Commonwealth.

Promote best practice workforce planning to encourage effective monitoring and reporting on APS capability

The Commission worked with APS agencies to promote best practice workforce planning by providing tools and guidance, and facilitating knowledge sharing.

The Commission continued to update the APS Job Family model, to ensure it reflects and facilitates contemporary approaches to APS workforce segmentation.

By the end of the reporting year the Commission had grown Job Family data holdings to about 114,000 APS employees, representing more than 75 per cent of the workforce. The Commission will continue to work with agencies to improve APS roles and associated Job Family representation over time, including through the Job Family Steering Committee, which the Commission chairs.

During the year the Commission coordinated the Workforce Planning Community of Practice, which continued to meet regularly face-to-face, complemented by an active online GovTeams community. Participants said they appreciated the way these events and forums blended data, analytics and workforce planning case studies with updates on innovation and initiatives in workforce planning across the APS.

The Commission also continued to provide agencies with access to a range of workforce data for benchmarking and monitoring purposes, through publications such as the biannual employment data release, the annual Remuneration Report, the annual State of the Service Report, as well as APS employee census reports.



Strategic priority 4:

PROMOTING INTEGRITY

Source of criteria: APSC Corporate Plan 2018–19, page 7, 14

Table 13: Results for objective 4.1

OBJECTIVE 4.1—PROMOTE A HIGH STANDARD OF INTEGRITY ACROSS THE APS			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Facilitate the Integrity Agencies Group to coordinate, enhance, promote and embed integrity in the APS.	Biannual integrity Agencies Group meeting.	The Commissioner chaired two Integrity Agencies Group meetings during the year. Discussion focused on a wide range of contemporary integrity issues that impact the APS.	
Provide advice on ethical issues to support high quality ethical decision making.	Publications, networks, and other ethics support services are regularly used across the APS.	The Ethics Advisory Service received more than 600 calls from individuals and agencies seeking advice on ethics-related issues. The Commission also distributed more than 4000 bookmarks with information on the APS Values, APS Code of Conduct and APS Employment Principles to APS agencies. The Commission hosted two Ethics Contact Officer Network meetings, supported by an Ethics Newsletter, which the Commission distributed to around 120 network members. Seven agencies requested assistance to develop and deliver bespoke ethical awareness presentations, and the Commission also presented at a range of other APS forums.	

Table 14: Results for objective 4.2

OBJECTIVE 4.2—EVALUATE AGENCY APPROACHES TO INCORPORATE AND UPHOLD THE APS VALUES			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Conduct an APS wide evaluation of how agencies are embedding the values.	Evaluation data indicates that managers and employees understand their professional obligations as APS employees.	The Commission conducted a Values Evaluation survey with a representative sample of APS employees. Survey data indicated that over the previous 12 months, 86 per cent of employees perceived their agency always or almost always expected full compliance with the APS Values. Other survey results identified a number of strengths and areas of potential improvements in relation to the APS Values. These results will form the basis for future work with agencies to enhance employees' understanding of their professional obligations.	

Performance analysis for Strategic priority 4: Promoting integrity

Promote a high standard of integrity across the APS

The Commissioner chaired meetings of the Integrity Agencies Group (IAG) on 8 November 2018 and 12 April 2019. The IAG discussed a range of contemporary



integrity issues including policy, legislation and best practice. Specific topics considered included the:

- Protective Security Policy Framework
- Foreign Interest Transparency Scheme, and
- Interim findings of the Independent Review of the APS.

The Commission provided IAG members with the opportunity to hear from guest speakers who offered insights into best practice initiatives to embed integrity across the APS. Representatives from the Australian Taxation Office offered an account of their experiences operating a large department within the integrity framework. Simone Webbe, co-author of the Australia and New Zealand School of Government (ANZSOG) report, *Being a trusted and respected partner: the APS integrity framework*, outlined the findings of ANZSOG's research, which was considered as part of the Independent Review of the APS.

The IAG's scope broadened during the year, with the addition of the Independent Parliamentary Expenses Authority as a standing member. The success of the IAG in promoting, sharing and embedding integrity across the APS has led to convening of a Deputy Secretary level IAG meeting.

During 2018–19, the Commission observed an increasing demand from agencies across the APS for ethics awareness presentations. In developing each presentation, the Commission worked closely with the respective agencies to ensure the content fulfilled the agency's need and captured emerging integrity issues relevant to their portfolio functions and to the APS more broadly. Awareness sessions incorporated de-identified case studies drawn from Ethics Advisory Service inquiries to illustrate actual ethical dilemmas experienced in the APS, and to stimulate discussion on practical approaches to confronting ethical issues.

These ethics awareness presentations generated opportunities to present at other APS forums. The Commission was invited to address the Small Agencies Forum, various communities of practice and agency corporate areas on a broad range of topics including the APS Code of Conduct, social media use and caretaker arrangements.

This year the Commission developed and distributed two newsletters to support the Ethics Contact Officer network (ECONet). The newsletters provided ECONet members with information on current integrity issues and sought feedback on various policy or guidance documents. Feedback on the utility of the newsletter has been positive.

The Commission hosted two ECONet meetings. The broad range of agency representatives heard from invited guest speakers and the Commission's Integrity team members on current successes and challenges relevant to promoting and embedding integrity across the APS. The Commission noted that active participation in the ECONet declined over the period, and re-invigorating the ECONet will be a focus area in 2019–20.

The APSC Ethics Advisory Service (EAS) continued to be a popular avenue for agencies and individuals to seek advice on the APS ethical framework. While call volume increased from the previous period, the EAS also provided telephone support for the Values Evaluation Project, which inflated the overall call numbers. Of the call subject categories tracked by the EAS, queries about misconduct continued to be the most common, followed by conflicts of interest.

Evaluate agency approaches to incorporate and uphold the APS values

In late 2018 and early 2019, a representative sample of APS agencies and employees participated in a survey designed to assess agencies' recent performance in embedding the APS Values. This assessment will offer a valuable companion for implementing recommendations that may flow from the Independent Review of the APS.

The survey also provided APS leadership and other stakeholders with more personal insights on the performance of agency approaches since July 2013, when the APS Values were updated in the Act.

The survey further explored different approaches to public service values from relevant jurisdictions in Australia and internationally, and identified both relative alignment with Australian states and territories, and a suite of potential international best practices.

Most respondents were positive about the way the APS Values were embedded in their agency. For example:

- 86 per cent of respondents felt that their agency always or almost always expected full compliance with the APS Values
- 77 per cent of respondents felt their agency always or almost always acted lawfully
- 55 per cent of respondents always or almost always believed their agency complied with Commonwealth anti-discrimination laws
- 54 per cent of respondents always or almost always perceived respectful behavior by SES officers
- 54 per cent of respondents always or almost always saw their agency treat all people with dignity, and
- 53 per cent of respondents always or almost always witnessed their agency handling resources ethically.

A small number of respondents offered suggestions for how the Commission might improve in supporting agency approaches to incorporating and upholding the APS Values.

Other survey results identified a number of strengths and areas of potential improvement in relation to the APS Values. The Commission will work with agencies, including through awareness raising presentations, to better enhance agency approaches to embedding the APS Values.



FOUNDATIONAL OBJECTIVES

Source of criteria: Corporate Plan 2018–19, page 7 and 15.

Table 15: Results for objective F.1.

OBJECTIVE F.1— MONITOR AND REPORT ON THE APS WORKFORCE TO INFORM WORKFORCE POLICIES AND PRACTICES			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Collect, analyse, and disseminate APS workforce data.	Data provided by the Commission is regularly used to develop and assess workforce policies and practices.	Agencies indicated in the 2018 APS agency survey that they regularly use workforce data and products provided by the Commission. The Commission collects, analyses and disseminates relevant information in the biannual employment data release, the APS Employment Database interactive interface (APSEDii), the annual Remuneration Report, the APS employee census, the APS annual survey, and the State of the Service Report.	
Timely response to APS workforce data requests.	Greater than 85 per cent of data requests are responded to within five days	In 2018–19, the Commission received just over 250 requests for workforce data and actioned 90 per cent within five days. This represented an increase from 2017–18 where the Commission received 181 requests, with 88 per cent of requests actioned within five days.	
Maintain comprehensive data sets representative of the APS workforce.	APS Employee Census response rate remains high.	The response rate for the APS employee census remained high. There was a 77 per cent response rate to the 2019 employee census, up 3 per cent on the previous year. This is the highest response rate for the census since it first began in 2012.	
	Improve employee data completeness, particularly for diversity, in the APS Employee Database.	The completeness of diversity information held by the APS Employee Database is improving. In the May 2019 edition of APS News, employees were encouraged to review their personal information, specifically diversity details, held in their agency HR system. The Commission will continue highlighting the importance of employees providing current personal information to their agency.	

Table 16: Results for objective F.2.

OBJECTIVE F.2— WORK WITH OTHER GOVERNMENTS ON MATTERS RELATING TO PUBLIC SECTOR WORKFORCE MANAGEMENT			
Deliverable	Key Performance Indicator	2018–19 results	Achieved
Deliver public sector capacity building activities under the Australian Aid program as requested by the Department of Foreign Affairs and Trade.	Programs deliver on outcomes as agreed with the Department of Foreign Affairs and Trade.	The Commission delivered capacity building programs as agreed with the Department of Foreign Affairs and Trade, and partner organisations in Indonesia and Papua New Guinea. The various activities included leadership development activities and knowledge and skills development for staff in priority areas.	

OBJECTIVE F:2—WORK WITH OTHER GOVERNMENTS ON MATTERS RELATING TO PUBLIC SECTOR WORKFORCE MANAGEMENT

Deliverable	Key Performance Indicator	2018–19 results	Achieved
Represent the APS and build relationships with foreign governments and other international bodies.	Host international delegations on request to share APS workforce policies and practices.	<p>The Commissioner visited Canada, the United Kingdom and Malaysia to meet with counterparts and discuss matters of mutual interest, including public sector reform, approaches to learning and development and talent management. The Commissioner also met with the Secretary-General of the Association of Southeast Asian Nations (ASEAN). The meetings laid the foundation for further dialogue and information sharing on public sector leadership, governance and workforce management issues.</p> <p>This year the Commission also increased its level of engagement with the New Zealand State Services Commission.</p> <p>The Commission continued its longstanding engagement with the Organisation for Economic Co-operation and Development (OECD). The Commission provided a range of information and statistics that contributed to OECD reports and publications, and supported Australian participation in OECD forums.</p> <p>The Commissioner joined the ANZSOG Board. ANZSOG works in partnership with federal and state governments in Australia, the New Zealand government, and universities in both countries, to lift the quality of public sector leadership through public sector executive education and government-focused research.</p> <p>The Commission responds to requests to meet with visiting foreign delegations and foreign ambassadors serving in Australia, to discuss a range of public sector administration and workforce management issues. The Commission engaged in this context with Thailand, Indonesia, Peru, India, Pakistan, Papua New Guinea and French Polynesia.</p>	
Engage with Australian public sector jurisdictions.	Participate in inter-jurisdictional forums to share public sector workforce best practice, information, and current challenges.	<p>The Commission continued to engage in the:</p> <ul style="list-style-type: none"> • biannual Australia-New Zealand Public Service Commissioners' Conference (comprising commissioners from the federal, state and territory levels) • biannual inter-jurisdictional Industrial Relations Directors' Conference (federal, states and territories) • inter-jurisdictional discussion on learning and development (includes New Zealand and the Australian states and territories—convened every two months) • quarterly National Public Sector Industrial Relations Officers Group teleconferences (with counterparts from states and territories), and • Inter-jurisdictional Workforce Data Analytics Committee (with counterparts from states and territories—convened monthly). <p>The Commission also continued to coordinate a Workforce Planning Community of Practice, which brings together workforce planning practitioners from across the APS, as well as state and territory governments, to share knowledge and best practice on workforce planning.</p> <p>During the year the Commission also sent a delegate to the 2018 National Human Resources Development Institute Leaders Forum on Smart Public Human Resources: Towards Sustainable and Collaborative Governance in South Korea.</p>	



Performance analysis: Foundational objectives

Monitor and report on the APS workforce to inform workforce policies and practices

During 2018–19, the Commission worked with agencies across the APS to ensure data collected by the Commission was useful in informing and shaping the structure and management of the APS workforce. The Commission also produced:

- two data releases covering APS workforce data as at 30 June 2018 and 31 December 2018
- an annual report on remuneration data and trends, as well as individual reports for each APS agency as at 31 December 2018
- more than 10,000 reports to agencies covering results of the 2019 APS employee census
- online access to the APS employee census data since 2012, through data.gov.au
- data on unscheduled absence rates for each APS agency, quarterly and as part of the annual State of the Service Report, and
- the 2017–18 State of the Service Report, tabled in late November 2018 and supported by presentations to APS staff around the country.

The Commission released data in response to 252 requests, and produced 19 research reports. Data collected by the Commission supported the work of the Independent Review of the APS, the review of the Commonwealth Aboriginal and Torres Strait Islander Employment Strategy, and the ongoing development of the APS Job Family Model.

Several APS agencies are using the Job Family Model to generate intelligence and insight into their current workforce and future skill and capability requirements. The Commission released a new version of the model in March 2019, including new roles designed to address emerging capability across the APS (such as digital transformation, user-centric design and cyber security). The Job Family Model also supports the key priorities for APS reform by facilitating workforce planning, talent management and career development.

The Commission continued to evaluate and improve its workforce data collection and reporting processes. Extensive consultation was undertaken with agencies on the content and structure for the 2019 APS employee census. This census was improved by strengthening measures to assess innovation and workplace change and introducing measures to assess collaboration across the APS.

Data collected by the Commission also supported senior departmental committees and networks such as the Secretaries Board, the Secretaries Equality and Diversity Council, the Secretaries APS Reform Committee, the Deputy Secretaries Reform Group, the Deputy Secretaries Data Group and the SES Indigenous Network.

Work with other governments on matters relating to public sector workforce management

The Commission continued to coordinate a Workforce Planning Community of Practice, which brings together workforce planning practitioners from across the APS, as well as state and territory governments, to share knowledge and best practice on workforce planning. This community of practice is complemented by an online GovTeams community, with nearly 300 members across Australia.

The Commission met monthly with delegates from the state and territory public service commissions as part of the Inter-jurisdictional Workforce Data Analytics Committee. Delegates collaborated on approaches to the management and use of workforce information.

The Commission sent a delegate to the 2018 National Human Resources Development Institute Leaders Forum on *Smart Public Human Resources: Towards Sustainable and Collaborative Governance* in South Korea. The forum comprised government delegates from 13 countries who met to discuss public sector workforce management topics, such as attraction and retention of talent, declining trust in government, ensuring a diverse workforce and working with advancing technology.



PORTFOLIO BUDGET STATEMENTS

Source of criteria: 2018–19 Portfolio Budget Statements, page 144.

Key performance indicators, 2018–19

The previous sections described the Commission's performance during 2018–19 and related to the priorities set out in the Commission's Corporate Plan 2018–19.

The following results are for the related performance criteria in the 2018–19 Portfolio Budget Statements.

Table 17: Results for program 1:1.

PROGRAM 1.1 – AUSTRALIAN PUBLIC SERVICE COMMISSION	
Key Performance Indicator	2018–19 results
Modernise the APS employment framework to reflect changes to the nature of work.	Achieved
Shape the APS workforce.	Partially achieved
Build workforce capability in the APS.	Achieved
Promote a high standard of integrity in the APS.	Achieved

Table 18: Results for program 1:2.

PROGRAM 1.2 – JUDICIAL OFFICE HOLDERS' REMUNERATION AND ENTITLEMENTS	
Key Performance Indicator	2018–19 results
Meet all requirements for the budgeting and reporting of Judicial Office Holders remuneration and entitlements.	Achieved

PART
THREE

Report on
financial
performance

Financial performance

This section summarises the Commission’s financial performance during 2018–19. More detail is available in Part 4, which contains the independent auditor’s report, and Commission is audited financial statements for the financial year ending 30 June 2019.

Departmental activities

Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the Commission in its own right.

Total income for 2018–19 was \$43.8 million. Government appropriation accounted for 49 per cent; non-appropriation income accounted for the remainder. Table 19 shows income since 2016–17, and Table 20 details income sources since 2016–17.

Appropriation funding reduced from \$22.8 million in 2017–18 to \$21.3 million in 2018–19. This decrease was the result of temporary budget funding for building digital capability in partnership with the Digital Transformation Agency, reducing from \$2.8 million in 2017–18 to \$1.4 million in 2018–19.

Table 19: Total income, by source, 2016–17 to 2018–19

Source	2016–17 (\$ million)	2017–18 (\$ million)	2018–19 (\$ million)
Appropriation	20.3	22.8	21.3
Non-appropriation	20.8	20.9	22.5
Total	41.1	43.7	43.8

Table 20: Proportion of total income, by source, 2016–17 to 2018–19

Source	2016–17 (per cent)	2017–18 (per cent)	2018–19 (per cent)
Appropriation	49.4	52.2	48.7
Non-appropriation	50.6	47.8	51.3

Table 21 shows the non-appropriation income received from sales of goods and the rendering of services in 2017–18 and 2018–19, while Table 22 shows the proportion of non-appropriation income received from sales of goods and services in 2017–18 and 2018–19.

**Table 21: Non-appropriation income received, by source, 2017–18 and 2018–19**

Source	2017–18 actual (\$ million)	2018–19 estimate (\$ million)	2018–19 actual (\$ million)
Learning and development	12.4	12.6	14.8
Employment services	1.7	1.9	1.6
International assistance	2.3	2.8	1.8
Workplace relations	2.0	1.6	1.8
Better practice and evaluation	1.9	2.0	2.0
Other	0.6	0.0	0.5
Total	20.9	20.9	22.5

Table 22: Proportion of non-appropriation income received, by source, 2017–18 and 2018–19

Source	2017–18 (%)	2018–19 (%)
Learning and development	60	66
Employment services	8	7
International assistance	11	8
Workplace relations	9	8
Better practice and evaluation	9	9
Other	3	2

Income from learning and development programs amounted to \$14.8 million in 2018–19 and accounted for 34 per cent of total income from all sources. This compares with \$12.4 million (28 per cent) in 2017–18.

The majority of income is earned in a competitive market, in which entities can choose service providers and determine the level of service they require. Demand can fluctuate, so the Commission has management strategies to ensure that resources devoted to this area are in keeping with the revenue earned.

This year was the third year of a multi-year funding agreement to support leadership and learning services, and the annual remuneration survey. The Commission received \$3.4 million from 43 government entities, accounting for 15 per cent of non-appropriation income. This compares with \$3.4 million from 48 government entities in 2017–18, accounting for 16 per cent of non-appropriation income for that year.

The Commission recorded an operating deficit of \$2.4 million in 2018–19, compared with a deficit of \$1.2 million in 2017–18.

In 2018–19, the Commission incurred expenses of \$0.9 million due to the impairment of software.

Excluding the impact of unfunded depreciation expenses and the impairment of software, the Commission's underlying operating result in 2018–19 was a balanced budget.

The administered program

The Commission's administered program facilitates the payment of judicial office holders' remuneration, allowances and entitlements. The Commission receives special appropriations for the program, from which the Attorney-General's Department makes payments.

Payments for 2018–19 amounted to \$4.1 million, compared with \$33.3 million in 2017–18. The decrease in payments was a result of the program no longer funding the remuneration of parliamentarians. Since 1 January 2018, parliamentarians have been funded by the *Parliamentary Business Resources Act 2017*, which is reported by the Department of Finance.

Payments made are reported in note 4.1c of the Commission's financial statements.

Asset management

In 2018–19, the Commission managed non-financial assets with a gross value of \$11.9 million. The reduction in value of assets is mainly due to the impairment of software. All assets owned, including IT assets, are subject to a regular stock-take to verify the accuracy of records. Assets are depreciated at rates applicable to the asset class.

Purchasing

Purchasing is made in accordance with the Commonwealth Procurement Rules. Guidance is provided to staff through the purchasing guide, and the accountable authority instructions. The Commission has a framework for managing the risks inherent in procurement activity, as well as operational guidelines to support staff in assessing the risks associated with their projects. The Commission published its procurement plan for 2018–19 on the AusTender website, at www.tenders.gov.au.

Consultants

The Commission engaged consultants when the expertise sought was not available internally or when independent advice was required. Decisions to engage consultants are made in accordance with the *Public Governance, Performance and Accountability Act 2013* and related Regulations, including the Commonwealth Procurement Rules, and other internal policies.



During 2018–19, the Commission entered into 23 new consultancy contracts involving total expenditure of \$0.8 million. This compares with 31 new contracts totalling \$0.3 million in 2017–18. A total of 13 ongoing consultancy contracts were active during 2018–19, involving total actual expenditure of \$0.1 million, compared with 13 ongoing contracts totalling \$0.5 million in 2017–18.

Information on the value of contracts and consultancies is available through the AusTender website. The Commission's standard-form contracts for services and consultancies are accessible to the Auditor-General.

Table 23 details expenditure on consultancy contracts in 2017–18 and 2018–19.

Table 23: Expenditure on consultancy contracts, 2017–18 and 2018–19

Year	Number of new contracts let	Number of ongoing contracts that were active	Total actual expenditure on new contracts (\$'000)	Total actual expenditure on ongoing contracts that were active (\$'000)	Total actual expenditure on contracts (\$'000)
2017–18	31	13	349	453	802
2018–19	23	13	838	149	987

Small business procurement

The Commission supports small businesses' participation in the Australian Government procurement market. Participation statistics for small and medium enterprises and small enterprises for 2018–19 are available on the Department of Finance website, at www.finance.gov.au.

The Commission adopted two specific practices to support procurement from small and medium enterprises:

- use of the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000; and
- use of payment cards for purchases up to \$10,000 to facilitate on-time payment.

Exempt contracts

The Commissioner may direct that contracts not be reported on the AusTender website if they are subject to an exemption under the *Freedom of Information Act 1982* or if the Commissioner considers the information is genuinely sensitive and harm is likely to be caused by its disclosure. No exemptions were issued during 2018–19.

Outlook for 2019–20

The Commission has revised its strategic priorities for 2019–20. The priorities were developed by looking to 2023 and beyond, in the context of unprecedented change in the APS coupled with changing expectations from government and the Australian community.

The Corporate Plan 2019–20 sets out these strategic priorities and deliverables, as well as primary activities and measures, for the period 2019–20 to 2022–23. The plan states that the Commission’s purpose is ‘to position the APS workforce for the future to ensure it meets the demands and expectations of the Australian Government and people’. The Corporate Plan 2019–20 can be accessed on the Commission’s website, www.apsc.gov.au.

Budget outlook

Departmental appropriation revenue will decrease from \$21.3 million in 2018–19 to \$20.3 million in 2019–20. This is the result of a reduction in the temporary budget funding for building digital capability in partnership with the Digital Transformation Agency from \$1.4 million in 2018–19 to \$0.3 million in 2019–20.

The Commission is reviewing its funding model and allocation of resources, to ensure a balanced and financially sustainable financial position.

Administered payments for the Judicial Office Holders’ Remuneration and Entitlements Program are expected to remain stable at \$4.2 million in 2019–20.

PART
FOUR

Financial
statements



2018–19 Financial Statements—Contents

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INDEPENDENT AUDITOR'S REPORT

To the Minister Assisting the Prime Minister for the Public Service and Cabinet

Opinion

In my opinion, the financial statements of the Australian Public Service Commission for the year ended 30 June 2019:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Australian Public Service Commission as at 30 June 2019 and its financial performance and cash flows for the year then ended.

The financial statements of the Australian Public Service Commission, which I have audited, comprise the following statements as at 30 June 2019 and for the year then ended:

- Statement by the Australian Public Service Commissioner and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to the financial statements, comprising a summary of significant accounting policies and other explanatory information.

Basis for Opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Australian Public Service Commission in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Accountable Authority's Responsibility for the Financial Statements

As the Accountable Authority of the Australian Public Service Commission, the Australian Public Service Commissioner (the Commissioner) is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under that Act. The Commissioner is also responsible for such internal control as the Commissioner determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.



In preparing the financial statements, the Commissioner is responsible for assessing the Australian Public Service Commission's ability to continue as a going concern, taking into account whether the entity's operations will cease as a result of an administrative restructure or for any other reason. The Commissioner is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

Auditor's Responsibilities for the Audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office

Lorena Skipper
A/g Executive Director

Delegate of the Auditor-General

Canberra
20 September 2019

Australian Public Service Commission

**Statement by the Australian Public Service Commissioner and
Chief Financial Officer**

In our opinion, the attached financial statements for the year ended 30 June 2019 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Australian Public Service Commission will be able to pay its debts as and when they fall due.



Peter Woolcott AO
Australian Public Service Commissioner
20 September 2019



Nick Adamson CPA
Chief Financial Officer
20 September 2019



Statement of Comprehensive Income

For the period ended 30 June 2019

		2019	2018	2019
	Notes	\$'000	\$'000	Budget \$'000
NET COST OF SERVICES				
Expenses				
Employee benefits	1.1a	26,297	26,013	25,864
Suppliers	1.1b	17,338	17,150	16,240
Depreciation and amortisation	3.2a	1,583	1,690	1,803
Finance costs		5	4	5
Impairment loss allowance on financial instruments	1.1c	4	-	-
Write-down and impairment of other assets	1.1d	860	-	-
Losses from asset sales		26	31	-
Total expenses		46,113	44,888	43,912
Own-source Income				
Own-source revenue				
Sale of goods and rendering of services	1.2a	22,416	20,877	20,903
Resources received free of charge	1.2b	41	40	45
Total own-source revenue		22,457	20,917	20,948
Gains				
Reversal of write-downs and impairment		-	1	-
Total gains		-	1	-
Total own-source income		22,457	20,918	20,948
Net cost of services		(23,656)	(23,970)	(22,964)
Revenue from Government	1.2c	21,299	22,811	21,299
Surplus/(Deficit)		(2,357)	(1,159)	(1,665)

Statement of Comprehensive Income

For the period ended 30 June 2019

	Notes	2019 \$'000	2018 \$'000	2019 Budget \$'000
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation reserve	3.2a	(203)	-	-
Total other comprehensive income		(203)	-	-
Total comprehensive income/(loss)		(2,560)	(1,159)	(1,665)

The above statement should be read in conjunction with the accompanying notes.

Budget variances commentary

The following table provides high level commentary of major variances for the APSC between budget information as published in the 2018-19 Portfolio Budget Statements to the 2018-19 final outcome as presented in accordance with Australian Accounting Standards.

Explanation of major variances	Affected line items
Sale of goods and services and Suppliers expense are higher than budget as the demand for learning and development activities was higher than the level planned when the budget was prepared.	Sale of goods and rendering of services \$1,513,000 higher than budget and Suppliers \$1,098,000 higher than budget.
An impairment loss was recognised for a software development that ceased.	Write-down and impairment of other assets \$860,000 higher than budget.



Statement of Financial Position

As at 30 June 2019

		2019	2018	2019
	Notes	\$'000	\$'000	Budget \$'000
ASSETS				
Financial assets				
Cash and cash equivalents		933	571	750
Trade and other receivables	3.1a	16,960	17,460	14,602
Total financial assets		17,893	18,031	15,352
Non-financial assets				
Building leasehold improvements	3.2a	5,119	5,758	5,791
Plant and equipment	3.2a	2,155	1,526	513
Intangibles	3.2a	635	1,696	1,428
Inventories		-	-	46
Prepayments paid	3.2b	477	561	560
Total non-financial assets		8,386	9,541	8,338
Total assets		26,279	27,572	23,690
LIABILITIES				
Payables				
Suppliers	3.3a	4,140	3,376	3,182
Prepayments received	3.3b	5,899	5,795	4,586
Other payables	3.3c	312	787	-
Total payables		10,351	9,958	7,768
Provisions				
Employee provisions	5.1a	7,622	7,164	7,095
Provision for restoration	3.4a	250	245	250
Total provisions		7,872	7,409	7,345
Total liabilities		18,223	17,367	15,113
Net assets		8,056	10,205	8,577
EQUITY				
Contributed equity		2,562	2,151	2,600
Asset revaluation reserve		560	763	763
Retained surplus		4,934	7,291	5,214
Total equity		8,056	10,205	8,577

Statement of Financial Position

As at 30 June 2019

	2019 \$'000	2018 \$'000
Aggregate assets and liabilities		
Assets expected to be recovered in:		
No more than 12 months	18,422	18,571
More than 12 months	7,857	9,001
Total assets	26,279	27,572
Liabilities expected to be recovered in:		
No more than 12 months	12,950	12,578
More than 12 months	5,273	4,789
Total liabilities	18,223	17,367

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary

Explanations of major variances	Affected line items
The balance for trade and other receivables is higher than budget due to holding higher than expected level of receivable from government and higher level of trade receivables at year end. The higher level of trade receivables is due to the timing of payments by customers.	Trade and other receivables \$2,358,000 higher than budget.
Buildings are lower than budget as major office fit-out works in 2018 were budgeted against buildings whilst some of the procurement was for plant and equipment. Plant and equipment is also higher than budget due to the transition to a new ICT service provider in 2019 which required the purchase of new equipment. This purchase of equipment resulted in a higher level of Suppliers payable at the end of 2019.	Buildings \$672,000 lower than budget and Plant and equipment \$1,642,000 higher than budget. Suppliers payable \$958,000 higher than budget.
Intangibles are lower than budget due to an impairment loss recognised as a result of the cessation of software development.	Intangibles \$793,000 lower than budget.
The balance of prepayments received varies in line with the timing of when invoices are issued to customers and when services are performed.	Prepayments received \$1,313,000 higher than budget.



Statement of Changes in Equity

For the period ended 30 June 2019

	2019 \$'000	2018 \$'000	2019 Budget \$'000
CONTRIBUTED EQUITY			
Opening balance	2,151	1,775	2,189
Transactions with owners			
Distributions to owners			
Reduction to appropriation	-	(38)	-
Contributions by owners			
Departmental capital budget	411	414	411
Closing balance	2,562	2,151	2,600
RETAINED SURPLUS			
Opening balance	7,291	8,450	6,879
Comprehensive income			
Surplus/(deficit) for the period	(2,357)	(1,159)	(1,665)
Closing balance	4,934	7,291	5,214
ASSET REVALUATION RESERVE			
Opening balance	763	763	763
Comprehensive income			
Other comprehensive income	(203)	-	-
Closing balance	560	763	763
TOTAL EQUITY			
Opening balance	10,205	10,988	9,831
Comprehensive income			
Surplus/(deficit) for the period	(2,357)	(1,159)	(1,665)
Other comprehensive income	(203)	-	-
Total Comprehensive income	(2,560)	(1,159)	(1,665)
Transactions with owners			
Distributions to owners			
Reduction to appropriation	-	(38)	-
Contributions by owners			
Departmental capital budget	411	414	411
Total transactions with owners	411	376	411
Closing balance	8,056	10,205	8,577

Statement of Changes in Equity

For the period ended 30 June 2019

Accounting policy

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

The above statement should be read in conjunction with the accompanying notes.



Cash Flow Statement

For the period ended 30 June 2019

	2019	2018	2019 Budget
	\$'000	\$'000	\$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	24,700	28,786	21,537
Sale of goods and rendering of services	22,588	22,011	20,903
GST received	1,465	1,976	1,708
Other cash received	1,864	1,025	-
Total cash received	50,617	53,798	44,148
Cash used			
Employees	27,928	26,518	25,864
Suppliers	19,149	18,439	17,806
Section 74 receipts transferred to OPA	2,500	1,000	-
Other cash used	445	320	-
Total cash used	50,022	46,277	43,670
Net cash from operating activities	595	7,521	478
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment	25	-	-
Total cash received	25	-	-
Cash used			
Purchase of property, plant and equipment	169	7,409	192
Purchase of intangibles	500	849	697
Total cash used	669	8,258	889
Net cash used by investing activities	(644)	(8,258)	(889)
FINANCING ACTIVITIES			
Cash received			
Contributed equity	411	414	411
Total cash received	411	414	411
Net cash from financing activities	411	414	411

Cash Flow Statement

For the period ended 30 June 2019

	2019	2018	2019
	\$'000	\$'000	Budget \$'000
Net increase/(decrease) in cash held	362	(323)	-
Cash and cash equivalents at the beginning of the reporting period	571	894	750
Cash and cash equivalents at the end of the reporting period	933	571	750

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary

Explanation of major variances	Affected line items
Appropriations are higher than budget due to returning Section 74 receipts that are above agreed working cash balance limits to the Official Public Account (OPA) and then redrawing funding as required.	Appropriations \$3,163,000 higher than budget and Section 74 receipts transferred to OPA \$2,500,000 higher than budget.
Sale of goods and rendering of services is higher than budget as the demand for learning and development activities was higher than budget, combined with higher customer prepayments. This increased demand also contributed to a higher level of supplier payments.	Sale of goods and rendering of services \$1,685,000 higher than budget and Suppliers \$1,343,000 higher than budget.
Employee payments are higher than budget due to the payment of separations that were accrued in 2018, and the transfer of leave liability balances to other entities. The transferring of leave liability balances from other entities resulted in a higher level of cash received.	Employees \$2,064,000 higher than budget and Other cash received \$1,864,000 higher than budget.



Administered Schedule of Comprehensive Income

For the period ended 30 June 2019

	Notes	2019 \$'000	2018 \$'000	2019 Budget \$'000
NET COST OF SERVICES				
Expenses				
Employee benefits	2.1a	4,140	33,342	4,170
Total expenses		4,140	33,342	4,170
Net cost of services		(4,140)	(33,342)	(4,170)
Total comprehensive loss		(4,140)	(33,342)	(4,170)

The above schedule should be read in conjunction with the accompanying notes.

Budget Variances Commentary

Explanation of major variances	Affected line items
There are no major budget variances.	-

Administered Reconciliation Schedule

	Notes	2019 \$'000	2018 \$'000
Opening assets less liabilities as at 1 July		-	-
Net cost of services			
Expenses			
Payments to entities other than corporate Commonwealth entities		(4,140)	(33,342)
Transfers from the Australian Government			
Appropriation transfers from Official Public Account			
Special appropriations (unlimited)			
Payments to entities other than corporate Commonwealth entities	4.1c	4,140	33,342
Closing assets less liabilities as at 30 June		<u>-</u>	<u>-</u>

Accounting policy

Administered cash transfers to and from the Official Public Account

Revenue collected by the APSC for use by the Government rather than the APSC is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the APSC on behalf of the Government and reported as such in the schedule of administered cash flows and in the administered reconciliation schedule.

The above schedule should be read in conjunction with the accompanying notes.



Administered Cash Flow Statement

For the period ended 30 June 2019

	2019	2018	2019
	\$'000	\$'000	Budget
	\$'000	\$'000	\$'000
OPERATING ACTIVITIES			
Cash used			
Employees	4,140	33,342	4,170
Total cash used	4,140	33,342	4,170
Net cash used by operating activities	(4,140)	(33,342)	(4,170)
Net decrease in cash held	(4,140)	(33,342)	(4,170)
Cash and cash equivalents at the beginning of the reporting period	-	-	-
Cash from Official Public Account			
Appropriations	4,140	33,342	4,170
Total cash from Official Public Account	4,140	33,342	4,170
Cash and cash equivalents at the end of the reporting period	-	-	-

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary

Explanation of major variances	Affected line items
There are no major budget variances.	-

Notes to the Financial Statements

The basis of preparation

The financial statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The Financial Statements have been prepared in accordance with:

- *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR)*; and
- Australian Accounting Standards and Interpretations – Reduced Disclosure Requirements issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the operating result or the financial position.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

New accounting standards

A number of new and revised standards, interpretations and amending standards were issued by the Australian Accounting Standards Board prior to the sign-off date but are not applicable until future years.

New accounting standard *AASB 16 Leases*, will have a material effect on the APSC's financial statements:

- 'Right of use' lease assets and lease liabilities of \$10.1 million will be recognised on 1 July 2019.
- Existing operating lease rental payables of \$0.4 million and operating lease prepayments of \$0.1 million will be derecognised on 1 July 2019.
- During 2019-20, operating lease rental expense of \$1.6 million will be derecognised, with right of use asset depreciation of \$1.6 million and lease interest of \$0.1 million to be recognised.

All other new and revised standards, interpretations and amending standards are not expected to have a material effect on the APSC's financial statements.

Accounting Judgements and Estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next reporting period.



Notes to the Financial Statements

Cash

Cash is recognised at its nominal amount. Cash and cash equivalents includes:

- cash on hand and
- cash held by outsiders.

Taxation

The APSC is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses, assets and liabilities are recognised net of GST except:

- where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- for receivables and payables.

Reporting of administered activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the administered schedules and related notes.

Except where otherwise stated, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

Events After the Reporting Period

There were no subsequent events that had the potential to affect the ongoing structure and financial activities of the APSC for either departmental or administered activities.

Notes to the Financial Statements

NOTE 1: DEPARTMENTAL FINANCIAL PERFORMANCE

This section analyses the financial performance of the APSC for the year ended 2019.

Note 1.1: Expenses

	2019	2018
	\$'000	\$'000
Note 1.1a: Employee benefits		
Wages and salaries	19,874	19,236
Superannuation		
Defined contribution plans	1,882	1,771
Defined benefit plans	1,920	1,939
Leave and other entitlements	2,536	2,359
Separation and redundancies	85	708
Total employee benefits	26,297	26,013

Accounting policy

The accounting policy for employee related expenses is contained in note 5.1 Employee provisions.

Note 1.1b: Suppliers

Goods and services supplied or rendered

Consultants	1,049	729
Contractors	8,179	8,233
Travel	903	748
Venue hire and catering	1,119	901
Training	300	300
Information and communications technology	2,759	2,759
Facilities expense	199	191
Other goods and services	748	828
Total goods and services supplied or rendered	15,256	14,689

Other suppliers

Operating lease rentals	1,622	2,023
Workers compensation expenses	460	438
Total other suppliers	2,082	2,461

Total suppliers	17,338	17,150
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Notes to the Financial Statements

Leasing commitments

The APSC in its capacity as lessee has three leases for office accommodation and one vehicle lease. Each office accommodation lease has annual fixed percentage increases in the lease payments. For all three accommodation leases, the initial period of office accommodation is still current and these leases do not have purchase options. The lease for the head office has the option to renew for two five year periods, whilst the other two accommodation leases do not have renewal options.

The lease for the head office commenced in July 2017 and the commitment is approximately \$11.3 million over a lease term of 9 years and 8 months.

	2019 \$'000	2018 \$'000
Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:		
Within 1 year	1,562	1,501
Between 1 to 5 years	5,528	5,840
More than 5 years	3,362	4,595
Total operating lease commitments	10,452	11,936

Commitments are disclosed net of GST.

Accounting policy

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

Note 1.1c: Impairment loss allowance on financial instruments

Impairment on goods and services receivable	4	-
Total write-down and impairment of assets	4	-

Note 1.1d: Write-down and impairment of other assets

Impairment of intangibles	860	-
Total write-down and impairment of other assets	860	-

Notes to the Financial Statements

Note 1.2: Own-source revenue

	2019	2018
	\$'000	\$'000
<u>Own-source revenue</u>		
Note 1.2a: Sale of goods and rendering of services		
Sale of goods	2	3
Rendering of services	22,414	20,874
Total sale of goods and rendering of services	22,416	20,877

Accounting policy

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer
- the APSC retains no managerial involvement nor effective control over the goods.

The stage of completion of contracts at the reporting date is determined by reference to services performed to date as a percentage of total services to be performed.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when the collectability of the debt is no longer probable.

Note 1.2b: Resources received free of charge

Audit services	41	40
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Accounting policy

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.



Notes to the Financial Statements

Revenue from Government

	2019	2018
	\$'000	\$'000
Note 1.2c: Revenue from Government		
Appropriations		
Departmental appropriations	21,299	22,811
Total revenue from Government	<u>21,299</u>	<u>22,811</u>

Accounting policy

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the APSC gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

NOTE 2: EXPENSES ADMINISTERED ON BEHALF OF GOVERNMENT

This section analyses the activities that the APSC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

Note 2.1: Administered - expenses

Note 2.1a: Employee Benefits

	2019	2018
	\$'000	\$'000
Employee benefits		
Wages and salaries	4,140	33,342
Total employee benefits	<u>4,140</u>	<u>33,342</u>

Notes to the Financial Statements

NOTE 3: DEPARTMENTAL FINANCIAL POSITION

This section analyses the APSC’s assets used to conduct its operations and the operating liabilities incurred as a result. Employee related information is disclosed in the People and Relationships section, Note 5.

Note 3.1: Financial assets

Note 3.1a: Trade and other receivables

	2019	2018
	\$’000	\$’000
Trade and other receivables		
Goods and services	1,983	1,576
Appropriation receivable	14,458	15,359
GST receivable from the Australian Taxation Office	523	525
Total trade and other receivables (gross)	16,964	17,460
Less impairment loss allowance - Goods and services	(4)	-
Total trade and other receivables (net)	16,960	17,460

Credit terms for goods and services are within 30 days (2018: 30 days).

Accounting policy

Trade receivables that are held for the purpose of collecting the contractual cash flows, where the cash flows are solely payments of principal and interest, that are not provided at below-market interest rates, are subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance.



Notes to the Financial Statements

Note 3.2: Non-financial assets**Note 3.2a: Reconciliation of the opening and closing balances of property, plant and equipment and intangibles**

Reconciliation of the opening and closing balances of property, plant and equipment and intangibles for 2019

2019	Buildings - Leasehold improvements	Plant and equipment	Computer software	Other intangibles - Intellectual property	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
As at 1 July 2018					
Gross book value	6,340	2,063	4,678	97	13,178
Accumulated depreciation, amortisation and impairment	(582)	(537)	(2,982)	(97)	(4,198)
Total as at 1 July 2018	5,758	1,526	1,696	-	8,980
Additions – by purchase	125	1,202	299	-	1,626
Revaluations and impairments recognised in other comprehensive income	-	(203)	-	-	(203)
Impairments recognised in net cost of services	-	-	(860)	-	(860)
Depreciation and amortisation	(764)	(360)	(459)	-	(1,583)
Disposals	-	(10)	(41)	-	(51)
Total as at 30 June 2019	5,119	2,155	635	-	7,909
Total as at 30 June 2019 represented by					
Gross book value	6,465	2,155	3,264	64	11,948
Accumulated depreciation, amortisation and impairment	(1,346)	-	(2,629)	(64)	(4,039)
Total as at 30 June 2019	5,119	2,155	635	-	7,909

Property, plant and equipment and intangibles were assessed for impairment as at 30 June 2019. Software with a value of \$860,000 was assessed as impaired (2018: nil). Property, plant and equipment and intangibles with a net value of \$85,000 are expected to be disposed of within the next 12 months (2018: nil).

Notes to the Financial Statements

Revaluation of non-financial assets

Revaluations are conducted in accordance with the revaluation policy contained in this note. Plant and equipment was revalued by an independent valuer during 2019 (2018: nil). There was a revaluation decrement of \$203,000 (2018: nil). All increments and decrements, to the extent that they reverse a previous increment, are transferred to the asset revaluation reserve by asset class and included in the equity section of the statement of financial position. No decrements due to revaluation were expensed in 2019 (2018: nil).

Contractual commitments for the acquisition of property, plant, equipment and intangible assets

There are no significant contractual commitments for the acquisition of property, plant and equipment and intangible assets (2018: nil).

Accounting policy

Acquisition of assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor's accounts immediately prior to the restructuring.

Asset recognition threshold

Purchases of property, plant and equipment are recognised initially at cost in the statement of financial position, except for purchases of property, plant and equipment costing less than \$2,000, or leasehold improvements costing less than \$60,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to the provision for restoration in property leases taken up by the APSC where there exists an obligation to restore the property to its original condition. These costs are included in the value of the APSC's leasehold improvements with a corresponding provision for restoration recognised.

Revaluations

Following initial recognition at cost, property, plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not materially differ from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised in the surplus or deficit. Revaluation decrements for a class of assets are recognised directly in the surplus or deficit except to the extent that they reverse a previous revaluation increment for that class.



Notes to the Financial Statements

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable property, plant and equipment assets are written off to their estimated residual values over their estimated useful lives to the APSC using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

<u>Asset class</u>	<u>2019</u>	<u>2018</u>
Leasehold improvements	Expected lease term	Expected lease term
Property, plant and equipment	1 to 13 years	1 to 13 years

Impairment

All assets were assessed for impairment at 30 June 2019. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

Intangibles

The APSC's intangibles comprise intellectual property, purchased software and internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses where the value of the asset exceeds \$2,000 for purchased software and \$60,000 for internally developed software and intellectual property.

Intangibles are amortised on a straight-line basis over their anticipated useful life. The useful lives of the APSC's intangibles are between 2 to 10 years (2018: 2 to 10 years).

All intangible assets were assessed for impairment as at 30 June 2019.

Note 3.2b: Prepayments paid

	2019	2018
	\$'000	\$'000
Prepayments paid		
Suppliers	477	561
Total prepayments paid	477	561

No indicators of impairment were found for prepayments paid.

Notes to the Financial Statements

Note 3.3: Payables

	2019	2018
	\$'000	\$'000
Note 3.3a: Suppliers		
Trade creditors and accruals	3,769	3,101
Operating lease rentals	371	275
Total suppliers	4,140	3,376
Note 3.3b: Prepayments received		
Rendering of services	5,899	5,795
Total prepayments received	5,899	5,795
Note 3.3c: Other payables		
Wages and salaries	166	152
Superannuation	28	26
Separations and redundancies	47	536
Other	71	73
Total other payables	312	787

Accounting policy

Suppliers and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced). Supplier and other payables are recognised and derecognised upon trade date.

Operating lease rentals are expensed on a straight-line basis, which is representative of the pattern of benefits derived from the leased assets.

Prepayments received are recognised for payments received for services that are not yet fully performed. This is measured in accordance with the accounting policy in note 1.2a for own-source revenue.

The wages and salaries payable and superannuation payable represent outstanding contributions for a portion of the final fortnight of the financial year.

The APSC recognises a payable for separation and redundancy benefit payments when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.



Notes to the Financial Statements

Note 3.4: Other provisions

Note 3.4a: Provision for restoration

	2019	2018
	\$'000	\$'000
As at 1 July	245	285
Additional provisions made	-	95
Amounts used	-	(139)
Unwinding of discount or change in discount rate	5	4
Total as at 30 June	250	245

The APSC currently has two (2018: two) leasing agreements which have provisions requiring the APSC to restore the premises to their original condition at the conclusion of the lease. The APSC has made provisions to reflect the present value of these obligations.

There was no revaluation of the provision for restoration (2018: no revaluation).

Notes to the Financial Statements

NOTE 4: FUNDING

This section identifies the APSC’s funding structure.

Note 4.1: Appropriations

Note 4.1a: Annual Appropriations ('Recoverable GST exclusive')

	2019	2018
Departmental	\$'000	\$'000
Annual Appropriation		
Ordinary annual services	21,299	22,811
Capital Budget ¹	411	414
Total Annual Appropriation	21,710	23,225
Adjustments to appropriation		
PGPA Act section 74 receipts	24,447	23,004
Total adjustments to appropriation	24,447	23,004
Total Appropriation	46,157	46,229
Appropriation applied (current and prior years)	(46,771)	(51,473)
Variance ²	(614)	(5,244)

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1, 3, 5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.

2. The variance in 2019 occurred due to the payment of accrued separation and redundancies.

The variance in 2018 occurred due to payments for major fit-out works, which resulted in higher cash outflows for the year.



Notes to the Financial Statements

Note 4.1b: Unspent Departmental Annual Appropriations ('Recoverable GST exclusive')

	2019	2018
	\$'000	\$'000
Departmental		
<i>Appropriation Act (No. 1) 2015-16¹</i>	-	9
<i>Appropriation Act (No. 1) 2016-17²</i>	7	7
<i>Appropriation Act (No. 1) 2017-18</i>	-	16,320
<i>Appropriation Act (No. 1) 2018-19</i>	15,707	-
Total departmental	15,714	16,336

1. In 2016, as announced in the 2015-16 Mid-year and Fiscal Economic Outlook, by agreement with the Department of Finance, the APSC relinquished control of surplus departmental appropriation funding of \$9,000. This unused appropriation was permanently withheld by direction of a delegate for the Minister for Finance under section 51 of the PGPA Act during June 2016. This appropriation lapsed on 1 July 2018.

2. In 2017, by agreement with the Department of Finance, the APSC relinquished control of surplus departmental appropriation funding of \$7,131. This unused appropriation was permanently withheld by direction of a delegate for the Minister for Finance under section 51 of the PGPA Act during June 2017. This appropriation lapsed on 1 July 2019.

Notes to the Financial Statements

Note 4.1c: Special Appropriations Applied ('Recoverable GST exclusive')

Authority	Appropriation applied	
	2019 \$'000	2018 \$'000
Administered		
<i>Remuneration Tribunal Act 1973 – section 7(13)</i> ¹	4,140	33,342
<i>Remuneration and Allowances Act 1990 – section 8</i> ²	-	-
<i>Judicial and Statutory Officers (Remuneration and Allowances) Act 1984 – section 7(2)</i> ³	-	-
Total special appropriations applied	4,140	33,342

1. The Attorney-General's Department drew from the *Remuneration Tribunal Act 1973* - section 7(13) for the purpose of making payments of Judicial Office Holders' remuneration and entitlements.

The Department of the House of Representatives and the Department of the Senate drew from the *Remuneration Tribunal Act 1973* - section 7(13) for the purpose of making payments of Parliamentarians' remuneration and entitlements.

From 1 January 2018, the payment of Parliamentarians' remuneration and entitlements by the Department of the House of Representatives and the Department of the Senate is funded by the *Parliamentary Business Resources Act 2017*, which is reported by the Department of Finance.

2. Due to amendments made in 2011 to the *Remuneration Tribunal Act 1973*, from 15 March 2012 payments are no longer made under this special appropriation.

3. No payment has been made under this special appropriation since it was transferred to the APSC in September 2010.

Note 4.2: Net cash appropriation arrangements

	2019 \$'000	2018 \$'000
Total comprehensive income less depreciation and amortisation expenses previously funded through revenue appropriations	(1,048)	298
Plus: depreciation and amortisation expenses previously funded through revenue appropriations	(1,512)	(1,457)
Total comprehensive income/(loss) - as per the Statement of Comprehensive Income	(2,560)	(1,159)



Notes to the Financial Statements

NOTE 5: PEOPLE AND RELATIONSHIPS

This section describes a range of employment and post employment benefits provided to our people and our relationships with other key people.

Note 5.1: Employee provisions

Note 5.1a: Employee provisions

	2019 \$'000	2018 \$'000
Employee provisions		
Leave	<u>7,622</u>	<u>7,164</u>
Total employee provisions	<u><u>7,622</u></u>	<u><u>7,164</u></u>

Accounting policy

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected within twelve months of the end of the reporting period are measured at their nominal amounts.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the APSC is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time that the leave is taken, including the APSC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by using the Australian Government shorthand method for all employees as at 30 June 2019. The estimate of the present value of the liability takes into account attrition rates and pay rises through promotion and inflation.

Superannuation

APSC employees are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS accumulation plan (PSSap) or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes.

The APSC makes employer contributions to the employees' defined benefit superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The APSC accounts for the contributions as if they were contributions to defined contribution plans.

Notes to the Financial Statements

Note 5.2: Key management personnel remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the APSC, directly or indirectly. The APSC has determined the key management personnel to be the Minister Assisting the Prime Minister for the Public Service and personnel within the APSC holding the following positions:

- Australian Public Service Commissioner
- Deputy Australian Public Service Commissioner
- Merit Protection Commissioner
- First Assistant Public Service Commissioner

Remuneration of key management personnel within the APSC is reported in the table below:

	2019	2018
	\$'000	\$'000
Short-term employee benefits	1,531	1,590
Post-employment benefits	205	169
Other long-term benefits	34	74
Termination benefits	-	-
Total key management personnel remuneration expenses ¹	1,770	1,833

The total number of key management personnel that are included in the above table are seven (2018: six) due to changes in staff during the year. The KMP expense is lower in 2019 due to one position being unfilled for a portion of the year.

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Minister Assisting the Prime Minister for the Public Service. The Minister's remuneration and other benefits are set by the Remuneration Tribunal and is paid through administered special appropriations of the Department of Finance.

Note 5.3: Related party disclosures

Related party relationships

The APSC is an Australian Government controlled entity. Related parties to the APSC are key management personnel including the Minister Assisting the Prime Minister for the Public Service and Executive, and other Australian Government entities.

Transactions with related parties

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

Other than the remuneration disclosed in note 5.2, there were no significant transactions with key management personnel (2018: nil).

The APSC undertakes a number of functions on behalf of the Australian Government. In performing these functions, the APSC transacts with other Australian Government controlled entities for normal day-to-day business operations provided either under normal terms and conditions or on a cost recovery basis.

The following significant transactions with related parties occurred during the financial year:

- About 99% of the APSC's sale of goods and rendering of services revenue was earned from other Australian Government controlled entities (2018: 99%).
- The APSC leases its head office accommodation from the Department of Finance (2018: the APSC entered an office lease commitment with the Department of Finance of approximately \$11.3 million over 9 years and 8 months, with lease payments commencing in July 2017).
- Information and communications technology services were provided by the Department of Employment, Skills, Small and Family Business and the Department of Prime Minister and Cabinet (2018: the Department of Jobs and Small Business provided information and communications technology services).



Notes to the Financial Statements

NOTE 6: MANAGING UNCERTAINTIES

This section analyses how the APSC manages financial risks within its operating environment.

Note 6.1: Contingent assets and liabilities

Departmental

	Restoration obligations	
	2019 \$'000	2018 \$'000
Contingent liabilities		
Balance from previous period	561	-
New contingent liabilities recognised	-	561
Re-measurement	14	-
Total contingent liabilities	575	561

The above table contains \$575,000 of quantifiable contingent liabilities in respect of obligations to restore office premises to their original condition at the conclusion of the lease (2018: \$561,000). The amount represents an estimate of the APSC's liability based on the estimated per square metre restoration cost for the office. In accordance with the terms of the lease agreement, the restoration obligation only arises if requested by the landlord.

The APSC had no quantifiable or unquantifiable contingent assets as at 30 June 2019 (2018: nil).

The APSC had no unquantifiable contingent liabilities as at 30 June 2019 (2018: nil).

Administered

The APSC had no quantifiable or unquantifiable administered contingent assets or liabilities as at 30 June 2019 (2018: nil).

Accounting Policy

Contingent liabilities and contingent assets are not recognised in the statement of financial position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

Notes to the Financial Statements

Note 6.2: Financial instruments

Note 6.2a: Categories of financial instruments

	Notes	2019 \$'000	2018 \$'000
Financial Assets under AASB 9			
Financial assets at amortised cost			
Cash and cash equivalents		933	571
Goods and services receivables (net)	3.1a	1,979	1,576
Total financial assets at amortised cost		2,912	2,147
Total financial assets		2,912	2,147
Financial Liabilities			
Financial liabilities measured at amortised cost			
Trade creditors and accruals	3.3a	3,769	3,101
Other payables	3.3c	71	73
Total financial liabilities measured at amortised cost		3,840	3,174
Total financial liabilities		3,840	3,174

Classification of financial assets on the date of initial application of AASB 9

Financial assets class	Note	AASB 139 original classification	AASB 9 new classification	AASB 139 carrying amount at 1 July 2018 \$'000	AASB 9 carrying amount at 1 July 2018 \$'000
Cash		Loans and receivables	Amortised Cost	571	571
Trade and other receivables	3.1a	Loans and receivables	Amortised Cost	1,576	1,576
Total financial assets				2,147	2,147

Reconciliation of carrying amounts of financial assets on the date of initial application of AASB 9

	AASB 139 carrying amount at 1 July 2018 \$'000	Reclassifi- cation \$'000	Remeasure- ment \$'000	AASB 9 carrying amount at 1 July 2018
Financial assets at amortised cost				
Loans and receivables				
Cash	571	-	-	571
Trade and other receivables	1,576	-	-	1,576
Total financial assets	2,147			2,147



Notes to the Financial Statements

Accounting Policy

Financial Assets

With the implementation of *AASB 9 Financial Instruments* for the first time in 2019, the APSC classified its financial assets as 'financial assets measured at amortised cost'. This classification was based on the APSC's business model for managing the financial assets and contractual cash flows at the time of initial recognition.

Financial assets are recognised when the APSC becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Comparatives have not been restated on initial application.

'Financial Assets at Amortised Cost' need to meet two criteria:

1. the financial asset is held in order to collect the contractual cash flows; and
2. the cash flows are solely payments of principal and interest on the principal outstanding amount.

Amortised cost is determined using the effective interest method. Income is recognised on an effective interest rate basis for financial assets that are recognised at cost.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period based on Expected Credit Losses, using the general approach which measures the loss allowance based on an amount equal to *lifetime expected credit losses* where risk has significantly increased, or an amount equal to *12-month expected credit losses* if risk has not increased.

The simplified approach for trade, contract and lease receivables is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

Financial liabilities

The accounting policy for financial liabilities is contained in note 3.3 Payables.

Notes to the Financial Statements

Note 6.3: Fair value measurement

Note 6.3a: Fair value measurement

	Fair value	
	2019 \$'000	2018 \$'000
Non-financial assets		
Leasehold improvements	5,119	5,758
Plant and equipment	2,155	1,526

Accounting Policy

All property, plant and equipment is measured at fair value, in accordance with the accounting policy.

The APSC's assets are held for operational purposes and not held for the purposes of deriving a profit.

Fair value is estimated using replacement cost, which is depreciated based upon the expended and remaining useful life of each asset.

PART
FIVE

Management
and
accountability

Corporate governance

Predicted outcomes and anticipated use of resources are set out in the Portfolio Budget Statements 2018–19. Actions designed to deliver the outcomes are detailed in the Corporate Plan 2018–19 and group business plans.

The Executive Committee provides strategic oversight and support for the Commissioner. It considers and advises on business, operational and policy strategies for the Commission.

Axiom Associates were engaged to conduct the internal audit function in 2018–19. Two audit reviews were completed: the Review of the Annual Performance Statements and the Funding Model Review. Additionally, an Audit of the Governance Framework commenced during the 2018–19 financial year.

Compliance and accountability

An annual review of the Commission's compliance with the financial management and accountability framework was conducted. The results of the review confirmed that the Commission's internal control environment is operating effectively. No significant non-compliance was detected.

The Commission also has an ongoing process of reviewing internal human resource policies to ensure they are consistent with best practice and contemporary human resource management principles.

Ethical standards

The Commission supports a culture of strong commitment to the APS Values and Code of Conduct and ensures this is reflected in the Commission's day-to-day work. All new employees at the Commission receive clear guidance about expectations in this regard.

External scrutiny

No Auditor-General's reports on the operations of the Commission were produced during the reporting year. Similarly, no reports were produced by parliamentary committees, the Commonwealth Ombudsman or the Australian Information Commissioner.

The Commission's Audit and Risk Management Committee provides independent advice to the Commissioner on the appropriateness of the Commission's accountability and control framework. Including, in relation to the Commission's financial and performance reporting.

No judicial decisions or decisions of administrative tribunals in 2018–19 had a significant impact on operations.



Human resources management

Staff management

At 30 June 2019, the Commission had an average staffing level (ASL) of 200 employees.

The majority (93 per cent) of the workforce is based in Canberra.

Of the entire Commission workforce, 74 per cent are women, 83 per cent work full-time, and 89 per cent are ongoing employees. Women make up 92 per cent of the part-time workforce.

Appendix B provides detailed information about the workforce.

Succession planning

In 2018–19, the Commission considered future staffing and capability requirements and engaged in strategic planning related to workforce matters. Of the 22 per cent of current ongoing employees who might elect to retire now or in the coming five years, the majority are at the Executive Level.

Recruitment activity in 2018–19 continued to focus on filling positions that directly contributed to the Commission's ability to achieve its strategic goals.

The Commission continued to use streamlined recruitment advertising and selection processes designed to identify the best applicants in a fair, transparent and efficient manner.

In 2018–19, the Commission again implemented a Graduate Recruitment Program to attract, identify, develop and retain graduates with skills and qualifications aligned with the strategic priorities.

Leave management

Average use of personal leave with pay—including sick, carers and emergency leave—was 10.9 days per employee in 2018–19. This compares with 10.8 days in 2017–18.

Workforce diversity

In 2018–19, the strong record in workforce diversity was maintained. The Commission has strategies and action plans in operation related to Aboriginal and Torres Strait Islander peoples, disability and carers, gender and LGBTI+. The Commission also has active employee diversity networks, including Disability and Carers, LGBTI+, Culturally and Linguistically Diverse, and Gender employee networks.

Reconciliation Action Plan

The Commission conducted a range of activities to support its commitment to reconciliation. These were facilitated by the Reconciliation Action Plan Working Group, which has representation from across the organisation.

In conjunction with the People and Business Management Group, the Reconciliation Action Plan Working Group continued to encourage staff to take the CORE e-learning course, which encourages respect for, and understanding of, Aboriginal and Torres Strait Islander peoples and cultures.

The Commission arranged a broad range of activities to celebrate key dates of importance such as National Reconciliation Week and NAIDOC Week, including the 17th annual NAIDOC Week APS Touch Football Carnival, walking tours of Reconciliation Place, and the Indigenous Experiences of Democracy Tour at the Museum of Australian Democracy.

In early 2019, artwork was commissioned to reflect the organisation’s reconciliation journey. The artwork was unveiled to staff, along with a new Reconciliation Action Plan, in the second half of 2019.

Remuneration

The Commission’s remuneration framework and terms and conditions of employment consist of an enterprise agreement for non-SES officers and section 24(1) determinations under the Act for SES officers.

The Australian Public Service Commission Enterprise Agreement 2018–21 came into effect on 7 November 2018.

Six non-SES officers at the Commission had individual flexibility arrangements approved during 2018–19. In addition, 12 section 24(1) determinations applying to SES officers were made during the year.

Table 26 shows the salary ranges available for the Commission’s classification levels.

No performance pay provisions were in operation for employees. The Commission provided non-salary benefits—including salary packaging, leased motor vehicles, laptops, mobile phones and airline lounge memberships—for a limited number of employees.

Table 24: Salary ranges, by classification, 2016–17 to 2018–19

Classification	2016–17 (\$'000)	2017–18 (\$'000)	2018–19 (\$'000)
APS 1–2	42–54	43–55	43–57
APS 3–4	57–67	58–69	58–70
APS 5	70–77	71–78	71–80
APS 6	80–87	81–88	81–90
EL 1	97–112	99–114	99–116
EL 2	122–137	125–140	125–143



Executive remuneration

Table 25 and 26 detail information relating to the remuneration of SES officers and other key personnel for 2018–19.

Table 25: Information about remuneration for key management personnel 2018–19

Name and position title	Short term benefits		Average other benefits and allowances	Post employment benefits	Other long term benefits		Termination benefits	Total remuneration
	Base Salary	Bonuses		superannuation contribution	Long service leave	Other long term benefits	Termination benefits	Total remuneration
Peter Woolcott Australian Public Service Commissioner	\$575,827	Nil	\$24,656	\$88,388	\$7,922	Nil	Nil	\$696,793
Mary Wiley-Smith Deputy Public Service Commissioner	\$322,347	Nil	\$26,757	\$50,257	\$2,382	Nil	Nil	\$401,743
Richard Bartlett First Assistant Commissioner	\$81,904	Nil	\$9,099	\$15,532	\$1,211	Nil	Nil	\$107,746
Linda Waugh Merit Protection Commissioner	\$244,622	Nil	Nil	\$21,461	\$2,420	Nil	Nil	\$268,503
John Lloyd Australian Public Service Commissioner	\$70,903	Nil	\$7,686	\$2,215	\$16,415	Nil	Nil	\$97,219
Jenet Connell Deputy Public Service Commissioner	\$57,199	Nil	\$6,103	\$9,553	\$1,595	Nil	Nil	\$74,450
Kerryn Vine-Camp First Assistant Commissioner	\$92,600	Nil	\$11,307	\$17,206	\$2,310	Nil	Nil	\$123,423

NOTE: Some of the numbers are impacted by the duration of service of Key Management Personnel (KMP). The numbers are based upon accrual accounting and may include some accrual adjustments. KMP in acting positions are reviewed on a case by case basis to determine if they are included in this information. This is generally based upon the length of acting.

This table has been updated to align to Note 5.2: Key management personnel remuneration in the financial statements.

Table 26: Senior Executive remuneration, 2018–19

Total remuneration bands	Number of staff	Short term benefits			Post employment benefits	Other long term benefits		Termination benefits	Total remuneration
		Average Base Salary	Average Bonuses	Average other benefits and allowances		Average long service leave	Average other long term benefits		
0–\$220,000	6	\$68,493	0	\$8,526	\$13,871	\$5,407	0	0	\$96,297
220,000–245,000	3	\$188,540	0	\$25,917	\$35,729	\$(8,073)	0	0	\$242,113
245,000–270,000	1	196,164	0	\$25,917	\$35,977	\$2,823	0	0	\$260,881
270,000–295,000	2	205,963	0	\$25,917	\$36,941	\$7,958	0	0	\$276,779

NOTE: Some of the figures are impacted by the duration of service of Senior Executives. The numbers are based upon accrual accounting and may include some accrual adjustments.

Performance management

The Commission continued to implement the ‘Taking Time to Talk’ approach to performance management, placing increased emphasis on employees and managers having regular, meaningful performance conversations. Further support and information for employees and managers is available on the Commission’s Intranet. The Commission continued to evaluate the approach, with surveys and discussion forums with employees and managers informing a review of the performance management framework.

Australia Day Awards

At the Commission’s 2019 Australia Day Awards ceremony the State of the Service and Workplace Bargaining teams received awards for their outstanding work and dedicated service.

Staff members Margaret O’Brien and Narelle Powers won individual awards for their contribution to the Workplace Relations Group and LGBTI+ Network respectively.

Information and communications technology

During 2018–19, the Commission transitioned ICT services from the Department of Jobs and Small Business to the Department of the Prime Minister and Cabinet. This transition has uplifted IT architecture to a protected network.

The transition has also provided the opportunity to review all ICT capabilities, with an ongoing program of work to consolidate, rationalise, modernise and safeguard these capabilities in line with broader government policies and directions.



Document and records management

In 2018–19 the Commission continued to support users to become proficient in the use of the Commission’s electronic document records management system.

Environmental performance

The Commission minimises the use of non-renewable resources. Appendix D details environmental performance.

PART
SIX

Appendices

Appendix A:

ENTITY RESOURCE AND OUTCOME RESOURCE STATEMENTS

Table A1 summarises the total resources, by funding source, available to the Commission in 2018–19 and the total payments made from these resources. The actual available appropriation includes balances carried forward from the preceding financial year.

Table A2 shows the total expenses for each outcome, classified by appropriation source for each program.

Table A1 is presented on a cash basis. Table A2 and the financial statements in Part 4 are presented on an accrual basis.

Table A1: Entity resource statement, 2018–19

Item	Actual available appropriation for 2018–19 (\$'000)	Payments made 2018–19 (\$'000)	Balance remaining (\$'000)
Ordinary annual services*			
Departmental appropriation†	62,478	46,771	15,707
Total ordinary annual services	62,478	46,771	15,707
Total available annual appropriations and payments	62,478	46,771	15,707
Special appropriations			
Special appropriations limited by criteria/entitlement			
<i>Remuneration Tribunal Act 1973</i>		4,140	
Total special appropriations		4,140	
Total net resourcing and payments for the Australian Public Service Commission	62,478	50,911	

* Appropriation Act No. 1 2018–19 and Appropriation Act No. 3 2018–19. This may also include prior-year departmental appropriations and section 74 retained revenue receipts.

† Includes an amount of \$0.4 million for the departmental capital budget. For accounting purposes, this amount is designated 'contributions by owners'.

**Table A2: Expenses and resources for Outcome 1, 2018–19**

Outcome 1: Increased awareness and adoption of best-practice public administration by the Public Service through leadership, promotion, advice and professional development, drawing on research and evaluation	Budget* 2018–19 (\$'000)	Actual expenses 2018–19 (\$'000)	Variation \$'000
Program 1.1: Australian Public Service Commission:			
Departmental expenses			
Departmental appropriation	42,202	43,700	(1,498)
Expenses not requiring appropriation in the budget year	1,710	2,413	(703)
Total for Program 1.1	43,912	46,113	(2,201)
Program 1.2: Judicial office holders' remuneration and entitlements:			
Administered expenses			
Special appropriations	4,170	4,140	30
Total for Program 1.2	4,170	4,140	30
Total expenses for Outcome 1	48,082	50,253	(2,171)
Staffing			
Average staffing level (number)		2017–18	2018–19
		195	200

* Full-year budget, including any subsequent adjustment made to the 2018–19 Budget at Additional Estimates.

† Departmental appropriation combines ordinary annual services (Appropriation Act Nos. 1 and 3) and retained revenue receipts under section 74 of the Public Governance, Performance and Accountability Act 2013.

Appendix B:

STAFFING PROFILE

Table A3 provides a breakdown of staff at 30 June in 2018 and 2019 by employment type and gender. Apart from the Commissioner and the Merit Protection Commissioner, all staff are employed under the Act.

Tables A4 and A5 show ongoing and non-ongoing staff by location and classification.

Tables A6 and A7 show staff by classification, location and gender over the past two years, and Table A8 shows the number of staff who identified as Indigenous.

Table A3: Ongoing and non-ongoing staff, by gender, 30 June 2018 and 30 June 2019

Employment type	30 June 2018			30 June 2019		
	Female	Male	Total	Female	Male	Total
Ongoing full-time	104	56	160	115	50	165
Ongoing part-time	26	3	29	28	3	31
Non-ongoing full-time	4	3	7	13	3	16
Non-ongoing part-time	3	0	3	7	0	7
Total	137	62	199	163	56	219

Note: Figures do not include irregular/intermittent employees but do include staff on long-term leave. The Australian Public Service Commissioner and the Merit Protection Commissioner are statutory office holders and are counted as ongoing full-time.

Table A4: Ongoing and non-ongoing staff, by location, 30 June 2019

Employment type	ACT	NSW	Total
Ongoing	184	12	196
Non-ongoing	20	3	23
Total	204	15	219

Table A5: Ongoing and non-ongoing staff, by classification, 30 June 2019

Classification	Ongoing	Non-ongoing	Total
APS1–2	3	6	9
APS 3–4	20	6	26
APS 5–6	63	6	69
EL 1	59	2	61
EL 2	35	3	38
SES and statutory office holders	16	0	16
Total	196	23	219

**Table A6: Staff, by classification, location and gender, 30 June 2018 and 30 June 2019**

Classification	30 June 2018					30 June 2019				
	ACT		NSW		Total	ACT		NSW		Total
	F	M	F	M		F	M	F	M	
	APS 1-2	1	3	0	0	4	6	3	0	0
APS 3-4	13	9	1	0	23	17	6	3	0	26
APS 5	12	6	0	0	18	17	6	1	0	24
APS 6	25	6	1	0	32	34	11	0	0	45
EL 1	44	23	4	2	73	38	14	7	2	61
EL 2	27	8	0	1	36	28	9	0	1	38
SES 1	6	2	0	0	8	10	2	0	0	12
SES 2	1	0	0	0	1	0	1	0	0	1
SES 3	1	0	0	0	1	1	0	0	0	1
Statutory office holders	0	1	1	1	3	0	1	1	0	2
Total	130	58	7	4	199	151	53	12	3	219

Note: Figures do not include irregular/intermittent employees but do include staff on long-term leave. The Australian Public Service Commissioner and the Merit Protection Commissioner are statutory office holders and count as ongoing full-time.

Table A7: Number of staff identifying as Indigenous, by employment type, 30 June 2018 and 30 June 2019

Employment type	30 June 2018	30 June 2019
Ongoing	10	11
Non-ongoing	1	1
Total	11	12

Appendix C:

WORK HEALTH AND SAFETY

Executive commitment

The Commission seeks to safeguard the health and safety of employees, workers and visitors by providing and maintaining a safe working environment. The Commission aims to eliminate all preventable work-related injuries and illness and is committed to supporting employee wellbeing.

Rehabilitation management system

The Commission monitored and reviewed the rehabilitation management system in 2018–19 as part of the commitment to continuous improvement. This resulted in the engagement of a dedicated rehabilitation case manager.

Health and wellbeing

Initiatives under the health and wellbeing program are developed in consultation with employees and the Workplace Relations/Workplace Health and Safety Committee.

Initiatives in 2018–19 included:

- continued availability of the Employee Assistance Program for employees and their families
- mental health awareness sessions
- influenza vaccinations
- reimbursement for employees requiring assistance to quit smoking or requiring glasses for visually demanding tasks
- training of first aid officers including Mental Health First Aid Officers, to ensure that immediate assistance is available if required
- workstation assessments, including providing special equipment to prevent injury and to support recovery for illness or injury
- supporting employees requiring reasonable adjustment
- early intervention support
- promoting and facilitating flexible working arrangements
- actively engaging with employee diversity and inclusion networks on matters including policy development and participating in key inclusion and awareness events, and
- raising awareness of issues relating to family and domestic violence to ensure policies reflect best practice and that appropriate support mechanisms are in place.



Staff also have access to a wide range of employee-initiated activities, including a walking group and other social sporting teams, a boot camp, choir and book club.

Notifiable incidents, notices and investigations

In 2018–19 no notifiable incidents occurred under Part 3 or Part 5 of the *Work Health and Safety Act 2011*.

Appendix D:

ECOLOGICALLY SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL PERFORMANCE

Section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* requires that Australian government organisations include in their annual reports information on their contribution to ecologically sustainable development.

The Commission's environmental policy aims to minimise the use of non-renewable resources, and environmental activities are directed towards improving energy management and environmental practices. This includes maximising the benefits of energy-saving devices and making purchases with energy efficiency in mind.

Printing facilities use 'follow-me' printing, which minimises waste and uncollected print-outs.

In 2018–19, the Commission continued to make energy savings through various technological improvements, the use of recycled paper and the blending of recycling and paper waste recycling. Any whitegoods or office equipment purchased had water-efficient and energy-efficient features, including sleep modes.

The Commission does not administer any legislation or have any appropriation directly related to sustainable development and environmental performance.

Appendix E:

ADVERTISING

The Commission did not engage in advertising campaigns in 2018–19.

Appendix F:

DISABILITY REPORTING MECHANISMS

Disability reporting is included in the annual State of the Service Report and the APS Statistical Bulletin. These reports are available on the Commission's website at www.apsc.gov.au.

The National Disability Strategy 2010–2020 sets out a national policy framework for improving the lives of people with disability, promoting participation and creating a more inclusive society. A high-level two-yearly report tracks progress against each of the six outcome areas of the strategy and presents a picture of how people with disability are faring. Copies of these reports are available on the Department of Social Services website at www.dss.gov.au.

Appendix G:

INFORMATION PUBLICATION SCHEME

The Commission's Information Publication Scheme statement pursuant to Part II of the *Freedom of Information Act 1982* is available at www.apsc.gov.au/about-the-apsc/Freedom-of-information/ips.



Appendix H:

LIST OF REQUIREMENTS

PGPA Rule Reference	Part of Report	Description	Requirement
17AD(g)	Letter of transmittal		
17AI	Letter of transmittal	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory
17AD(h)	Aids to access		
17AJ(a)	Contents	Table of contents.	Mandatory
17AJ(b)	Part 9	Alphabetical index.	Mandatory
17AJ(c)	Part 7	Glossary of abbreviations and acronyms.	Mandatory
17AJ(d)	Part 6	List of requirements.	Mandatory
17AJ(e)	Inside front cover	Details of contact officer.	Mandatory
17AJ(f)	Inside front cover	Entity's website address.	Mandatory
17AJ(g)	Inside front cover	Electronic address of report.	Mandatory
17AD(a)	Review by accountable authority		
17AD(a)	Part 1	A review by the accountable authority of the entity.	Mandatory
17AD(b)	Overview of the entity		
17AE(1)(a)(i)	Part 1	A description of the role and functions of the entity.	Mandatory
17AE(1)(a)(ii)	Part 1	A description of the organisational structure of the entity.	Mandatory
17AE(1)(a)(iii)	Part 1	A description of the outcomes and programmes administered by the entity.	Mandatory
17AE(1)(a)(iv)	Part 2	A description of the purposes of the entity as included in corporate plan.	Mandatory
17AE(1)(aa)(i)	Part 2	Name of the accountable authority or each member of the accountable authority	Mandatory
17AE(1)(aa)(ii)	Part 2	Position title of the accountable authority or each member of the accountable authority	Mandatory
17AE(1)(aa)(iii)	Part 1	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory
17AE(1)(b)	N/A	An outline of the structure of the portfolio of the entity.	Portfolio departments mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
17AE(2)	N/A	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory
17AD(c)	Report on the Performance of the entity		
	Annual performance Statements		
17AD(c)(i); 16F	Part 2	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory
17AD(c)(ii)	Report on Financial Performance		
17AF(1)(a)	Part 3	A discussion and analysis of the entity's financial performance.	Mandatory
17AF(1)(b)	Part 3	A table summarising the total resources and total payments of the entity.	Mandatory
17AF(2)	Part 3	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, Mandatory.
17AD(d)	Management and Accountability		
	Corporate Governance		
17AG(2)(a)	Part 5	Information on compliance with section 10 (fraud systems)	Mandatory
17AG(2)(b)(i)	Letter of transmittal	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory
17AG(2)(b)(ii)	Letter of transmittal	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory
17AG(2)(b)(iii)	Letter of transmittal	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory
17AG(2)(c)	Part 5	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory
17AG(2)(d) – (e)	N/A	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to noncompliance with Finance law and action taken to remedy noncompliance.	If applicable, Mandatory
	External Scrutiny		
17AG(3)	Part 5	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory
17AG(3)(a)	Part 5	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, Mandatory
17AG(3)(b)	N/A	Information on any reports on operations of the entity by the AuditorGeneral (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory
17AG(3)(c)	N/A	Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory



PGPA Rule Reference	Part of Report	Description	Requirement
		Management of Human Resources	
17AG(4)(a)	Part 5	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory
17AG(4)(aa)	Part 5	Statistics on the entity's employees on an ongoing and nonongoing basis, including the following: (a) statistics on fulltime employees; (b) statistics on parttime employees; (c) statistics on gender (d) statistics on staff location	Mandatory
17AG(4)(b)	Part 5	Statistics on the entity's APS employees on an ongoing and nonongoing basis; including the following: · Statistics on staffing classification level; · Statistics on fulltime employees; · Statistics on parttime employees; · Statistics on gender; · Statistics on staff location; · Statistics on employees who identify as Indigenous.	Mandatory
17AG(4)(c)	Part 5	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	Mandatory
17AG(4)(c)(i)	Part 5	Information on the number of SES and nonSES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory
17AG(4)(c)(ii)	Part 5	The salary ranges available for APS employees by classification level.	Mandatory
17AG(4)(c)(iii)	Part 5	A description of nonsalary benefits provided to employees.	Mandatory
17AG(4)(d)(i)	Part 5	Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory
17AG(4)(d)(ii)	Part 5	Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory
17AG(4)(d)(iii)	Part 5	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory
17AG(4)(d)(iv)	Part 5	Information on aggregate amount of performance payments.	If applicable, Mandatory
		Assets Management	
17AG(5)	Part 3	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory
		Purchasing	
17AG(6)	Part 3	An assessment of entity performance against the Commonwealth Procurement Rules.	Mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
Consultants			
17AG(7)(a)	Part 3	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory
17AG(7)(b)	Part 3	A statement that "During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]".	Mandatory
17AG(7)(c)	Part 3	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory
17AG(7)(d)	Part 3	A statement that "Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website."	Mandatory
Australian National Audit Office Access Clauses			
17AG(8)	N/A	If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the AuditorGeneral with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	If applicable, Mandatory
Exempt contracts			
17AG(9)	Part 3	If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, Mandatory
Small business			
17AG(10)(a)	Part 3	A statement that "[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website."	Mandatory
17AG(10)(b)	Part 3	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory
17AG(10)(c)	N/A	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that "[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website."	If applicable, Mandatory
Financial Statements			



PGPA Rule Reference	Part of Report	Description	Requirement
17AD(e)	Part 4	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory
		Executive Remuneration	
17AD(da)	Part 5	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 23 of the Rule.	Mandatory
17AD(f)	Other Mandatory Information		
17AH(1)(a)(i)	Part 6	If the entity conducted advertising campaigns, a statement that "During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website."	If applicable, Mandatory
17AH(1)(a)(ii)	Part 6	If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory
17AH(1)(b)	N/A	A statement that "Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website]."	If applicable, Mandatory
17AH(1)(c)	Part 6	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory
17AH(1)(d)	Part 6	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory
17AH(1)(e)	N/A	Correction of material errors in previous annual report	If applicable, mandatory
17AH(2)	Part 6	Information required by other legislation	Mandatory

PART
SEVEN

Reference
material

Abbreviations and acronyms

AASB	Australian Accounting Standards Board
ANZSOG	Australia and New Zealand School of Government
APS	Australian Public Service
APSED	APS Employment Data
APSEDii	APS Employment Data internet interface
ASEAN	Association of Southeast Asian Nations
CSS	Commonwealth Superannuation Scheme
DCB	Departmental Capital Budget
EAS	Ethics Advisory Service
ECOnet	Ethics Contact Officer Network
FBT	Fringe Benefits Tax
FRR	Financial Reporting Rule
GST	Goods and Services Tax
HR	Human Resources
IAG	Integrity Agencies Group
ICT	Information and Communications Technology
KMP	Key Management Personnel
LGBTI+	Lesbian, gay, bisexual, transgender, intersex (plus peers)
MOU	Memorandum of Understanding
MP	Member of Parliament
OECD	Organisation for Economic Co-operation and Development
OPA	Official Public Account
PGPA	<i>Public Governance, Performance and Accountability Act 2013</i>
PSS	Public Sector Superannuation Scheme
PSSap	Public Sector Superannuation Scheme accumulation plan
SES	Senior Executive Service



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Australian Government
Merit Protection Commissioner

ANNUAL REPORT of the **Merit Protection Commissioner**



merit



The Hon Greg Hunt MP
Minister Assisting the Prime Minister for the Public Service and Cabinet
Parliament House
Canberra ACT 2600

Dear Minister

I am pleased to present the Merit Protection Commissioner Annual Report for the reporting period ending 30 June 2019. As required by section 51 of the *Public Service Act 1999*, my report deals with the activities of the Office of the Merit Protection Commission; it is required to be included in the Australian Public Service Commissioner's Annual Report.

In preparing this report I have taken into account those requirements relevant to my role as a Statutory Office holder contained in Annual Reports for Non-corporate Commonwealth Entities: the Resource Management Guide No. 135: issued by the Department of Finance in May 2019.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Linda Waugh'.

Linda Waugh
Merit Protection Commissioner
15 October 2019



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Merit Protection Commissioner's **foreword**



I am pleased to present my second annual report as the Merit Protection Commissioner.

The Merit Protection Commissioner is a

role established under the *Public Service Act 1999* (the Act) which performs a range of statutory functions for the Australian Public Service (APS). Those functions are concerned with the implementation of, and compliance with, the APS employment framework and principles, as well as the operation of the broader integrity framework.

The key way my office does this is through the review of action scheme articulated in the Act and the Public Service Regulations 1999. The scheme allows an APS employee to seek review of almost any APS action taken that relates to his or her employment. This maybe an unreasonable refusal of a leave or flexible work application, a performance rating which the employee disagrees with, or a finding they have breached the code of conduct which the APS employee believes is not warranted or was arrived at through an unfair process. Review can also be sought for certain promotion decisions.

Within that scheme, the Merit Protection Commissioner provides an impartial avenue of review to APS employees which is independent of their department or agency. This is an important if not critical element of an accountable and fair APS employment framework. As noted in a recent decision

of the High Court of Australia, review by the Merit Protection Commissioner of an administrative determination and sanctioning of a breach of the APS Code of Conduct forms part of the comprehensive system of merits review available to APS employees.¹

During 2018–19 we received 171 applications for review of employment actions from APS employees across 18 different departments or agencies. The single largest category of employment action APS employees sought independent review on were Code of Conduct breach determinations or sanction decisions. This was followed by reviews of actions relating to performance management, workplace behaviour and access to flexible working arrangements respectively.

While the majority of agency actions or decisions were upheld, recommendations to set aside or vary a decision were made in 26 per cent of cases. There are many different reasons why we recommend an action or decision be varied or set aside—these include procedural problems, insufficient grounds for a finding of fact, or misapplication of an element of the Code of Conduct, a policy or an enterprise agreement, as well as a decision simply being unfair on its merits. The importance of our work in these matters is twofold—the employee is not subject of an adverse consequence resulting from an unfair or defective process or decision, and the department or agency receives feedback about its processes and practices and the capacity of its decision-makers to meet their obligations to the Employment Principles and Values and to handle the discretionary judgements allowed by the delegations they exercise.

¹ Comcare v Banerji [2019] HCA 23, [106].

We additionally received 1,089 applications for review of promotion decisions up to APS 6, and formed 82 promotion review committees which considered 392 promotion decisions. Only two promotion decisions were varied indicating that agency and department selection processes, at least in those promotion decisions reviewed by my office, result in the most meritorious candidate being appointed. The importance of the promotion review scheme is not in the number of promotion decisions varied, but in the limited assurance it gives to agency and department recruitment and selection processes that the principle of merit has been adhered to. Additionally, the fact that a promotion decision can be subject of independent merits review continually reinforces to departments and agencies to have ongoing fair and effective selection procedures and practices.

Our work is not limited to considering individual employment-related actions and decisions—we can also conduct direct inquiries and have an important role in working with stakeholders to improve employment-related decision-making and the management of misconduct matters more generally within the APS. I consider it a strategic priority to ensure that observations from our case work is translated into better practice advice and guidance that is communicated to APS departments and agencies.

We are small office of 12 employees, so it can at times, be challenging to meet this strategic priority when we have high caseload or when staffing numbers fall below 12 due to leave or attrition. Nevertheless, this year we had 70 contacts with stakeholders, held three Community of Practice sessions, and delivered a number of presentations. I met with senior executives and practitioners through-out the year to discuss specific case outcomes and the

broader practice implications of those matters. We also worked with agencies to help them better manage promotion review processes and to provide feedback on the effectiveness of their selection processes.

We continued this year to improve our internal governance and business processes. We updated our website content, commenced a review of our procedures manual, and trained 82 new nominees for Promotion Review Committees. We also implemented a triage and risk management approach to case management to improve efficiency and timeliness.

While I am very pleased with our achievements for 2018–19 there is still much to do. We will continue to focus on delivering high quality reviews and offering expert advice that supports the integrity and performance of the APS. We will also aim to further promote the review of action scheme to all APS employees, departments and agencies and to work collaboratively with our stakeholders.

Finally, I would like to thank and acknowledge the staff of the Australian Public Service Commission who assisted me in discharging my statutory functions—they are a dedicated group who are committed to the importance of the work of the Merit Protection Commissioner. They have worked diligently through-out the year, ensuring that reviews are completed to the highest standard and offering sound and judicious advice when needed.

I would also like to thank the other staff of the Australian Public Service Commission who provide support for the operation of my office—this includes but is not limited to the corporate and legal areas, as well as the communications and IT areas.

Linda Waugh
Merit Protection Commissioner

1. Overview



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Our year at a glance



12 staff and Merit Protection Commissioner

1260 applications under the Review of Action scheme

171 for reviews of employment actions relating to an APS employee

Top 5 agencies

Department of Defence **36**
 Department of Human Services **41**
 Australian Taxation Office **20**
 Department of Home Affairs **15**
 Department of Health **7**

1089 for reviews of an agency decision to promote

Top 5 agencies

Department of Human Services **776**
 Department of Home Affairs **185**
 Australian Taxation Office **34**
 Australian Bureau of Statistics **31**
 Department of Defence **26**



26% of cases reviewed recommended to be set aside or varied.

82% of reviews of actions completed within 14 weeks

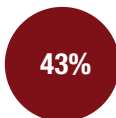
above 75% target



95% of promotion reviews completed with 8 weeks (up to 10 parties involved) or 12 weeks (more than 10 parties involved)

above 75% target

Reviews by subject



Code of conduct



Salary, allowances and other payments



Performance management



Flexible working arrangements



Workplace behaviour



Leave



Other



70 stakeholder engagement meetings and presentations



5 Independent Selection Advisory Committees finalised



1 direct Code of Conduct inquiry finalised and one commenced



Functions and responsibilities

The Merit Protection Commissioner is established under section 49 of the *Public Service Act*. Ms Linda Waugh was appointed to the role on 25 June 2018. Mr Bruce Barbour acted in the role of Merit Protection Commissioner from 28 June to 20 July 2018.

Ms Waugh is also the Parliamentary Service Merit Protection Commissioner. The duties and functions of this role mirror those of the Merit Protection Commissioner under the Public Service Act, and are the subject of a separate annual report.

The Merit Protection Commissioner is co-located with the Australian Public Service Commission. The Merit Protection Commissioner's functions are set out in sections 50 and 50A of the Public Service Act and Parts 2, 4, 5 and 7 of the Public Service Regulations. The following sections outline each function in detail.

Review of actions scheme

Section 33 of the Public Service Act provides an APS employee an entitlement to review, in accordance with the regulations, of any APS action that relates to his or her APS employment (excluding termination). Agencies are responsible for internal reviews, and the Merit Protection Commissioner provides independent and external merit-based reviews.

The Australian Government general policy (Public Service Regulation 5.1) about the review of actions scheme is that:

- APS agencies should achieve and maintain workplaces that encourage productive and harmonious working environments
- there should be a fair system of review of APS actions
- APS employee's concerns should be dealt with quickly, impartially and fairly
- the review process should be consistent with the use of alternative dispute resolution methods to reach satisfactory outcomes where appropriate
- nothing in the operation of the scheme should prevent an application for review from being resolved by conciliation or other means at any time before the review process is completed.

The Merit Protection Commissioner can review three broad categories of employment-related actions within the scheme:

1. Review of Promotion decisions—an ongoing APS employee who applies for promotion to APS levels 1 to 6 and is unsuccessful, and where the person recommended for promotion is another APS employee, may apply for a full merits review of the promotion decision. A Merit Protection Commissioner promotion review decision is binding on the relevant agency head.

2. Primary review of a determination that an APS employee has breached the Code of Conduct, a sanction decision, or where it is not appropriate for the agency to do an internal agency review (for example, if the agency head was directly involved in the action, it is not appropriate due to the seriousness or sensitivity of the action, or the action is claimed to be victimisation or harassment of the employee for having made a previous application for review of action). This is called a primary review because the APS employee does not have to seek an internal agency review. Rather, they can apply directly to the Merit Protection Commissioner for review. Any APS employee at classifications below Senior Executive Service level can seek a primary review. The Merit Protection Commissioner can recommend the agency decision be upheld, varied or set aside.
3. Secondary review of any other employment-related action. This is called a secondary review because the APS employee must seek an internal review by their agency before applying to the Merit Protection Commissioner. An application can also be made when an agency head has rejected the APS employee's application for internal/primary review on the ground that it is not a reviewable action. Examples include performance review ratings, applications for flexible working arrangements and disputes over the type of leave applied for. Any APS employee at classifications below Senior Executive Service level can seek a secondary review. The Merit Protection Commissioner can recommend the agency decision be upheld, varied or set aside.

Inquiry functions

The Merit Protection Commissioner can conduct inquiries into:

- public interest disclosures that relate to alleged breaches of the Code of Conduct
- alleged breaches of the Code of Conduct by the Australian Public Service Commissioner
- an APS action at the request of the Public Service Minister
- alleged breaches of the Code of Conduct by an APS employee, or a former APS employee.

The Merit Protection Commissioner may also investigate a complaint by a former APS employee related to their entitlements on separation from the APS.

Statutory functions provided on fee for service basis

Under section 50A of the Public Service Act, the Merit Protection Commissioner may inquire into and determine, on a fee for service basis, whether an APS employee or a former employee has breached the Code of Conduct, if a request is made by the



agency head. The inquiry must have the written agreement of the employee or former employee. A finding or any action undertaken during an inquiry by the Merit Protection Commissioner cannot be subject of review under the review of actions scheme.

If requested, the Merit Protection Commissioner may establish Independent Selection Advisory Committees to help with agencies' recruitment processes. These committees are independent, three-member bodies that perform a staff selection exercise on behalf of an agency, and make recommendations about the relative suitability of candidates for jobs at the APS 1 to 6 classifications. The convenors are employees working for the Merit Protection Commissioner. A promotion decision by an Independent Selection Advisory Committee cannot be subject of promotion review under the review of actions scheme.

Non-APS fee for service work

Under section 50(1)(e) of the Public Service Act, the Merit Protection Commissioner can perform other such functions as prescribed by the regulations, and charge fees on behalf of the Commonwealth for those other functions (s. 50(3)). Regulation 7.4 lists those functions as:

- reviewing action that relates to the employment of a person by the person or body
- investigating action that relates to the employment of a person by the person or body
- providing advice that relates to the employment of a person by the person or body
- providing services in connection with selection committees used by the person or body for the selection or employment of a person
- providing other services that relate to the employment of a person.

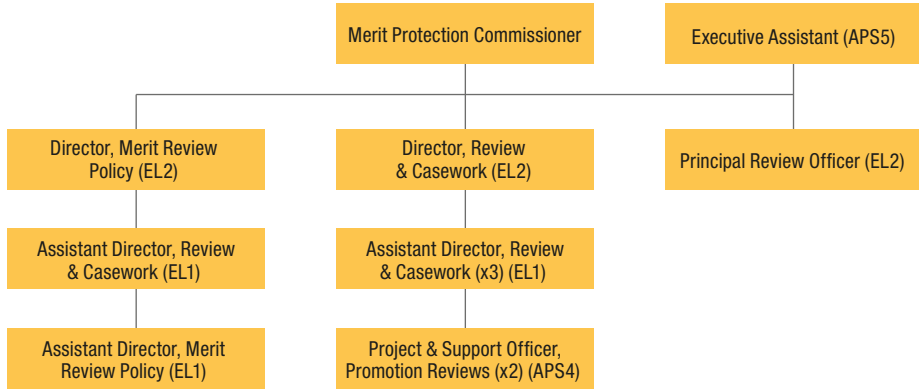
These can be for any non-APS entity including:

- Commonwealth authorities to which the Public Service Act does not apply
- state and territory departments and authorities
- local government bodies
- private corporations and bodies.

Structure

The structure of the Merit Protection Commissioner’s office is shown in the diagram below.

Figure 1: Structure of the office of the Merit Protection Commissioner



We also engage a small number of casual staff on an as-needed basis (usually for a specific activity such as convening a Promotion Review Committee or conducting a Code of Conduct investigation).

2. Report on performance of statutory functions



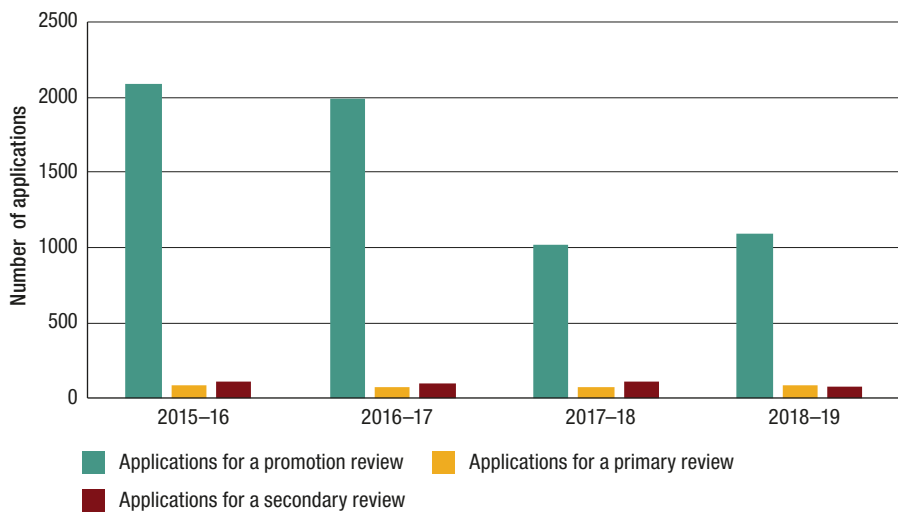
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Year-end totals for all reviews of action

During 2018–19 we received a total of 1,260 applications for a review of an APS action. Of these:

- 1,089 were applications for a promotion review
- 88 were applications for a primary review of a finding that an employee had breached the Code of Conduct, a sanction decision, or cases where it was not appropriate for the agency to conduct the initial review
- 77 were applications for a secondary review of an employment-related action (following dissatisfaction with the internal agency review)
- six were applications by former employees for review of a finding that they had breached the Code of Conduct or for an inquiry into entitlements on separation from the APS.

Figure 2: Trends in total number of review of action applications, 2015–16 to 2018–19



The number of promotion review applications can vary considerably from year-to-year, while primary and secondary reviews have remained relatively stable across time.

Reviews of promotion decisions

An ongoing APS employee can seek a review of an agency’s decision to promote one or more employees to an ongoing job at the APS 1 to 6 classifications. This is a merits-based review and, to be successful, the applicant must demonstrate that their claims to the job have more merit than the employee who was promoted.



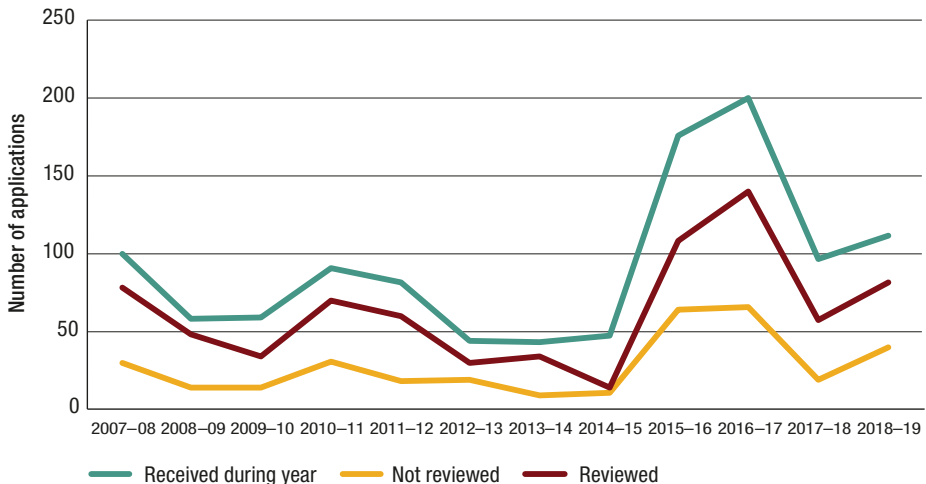
Of the 1,089 applications for a review of a promotion decision we received during the year, 112 were applications from unsuccessful applicants for promotion.

A total of 82 Promotion Review Committees were formed to consider 392 promotion decisions.

Promotion Review Committees also consider applications from individuals who have been promoted but who apply for review of the promotion of another APS employee in the same selection exercise. These are sometimes referred to as ‘protective’ applications. Their purpose is to ensure the employee’s interests are protected if their promotion is overturned on review—that is, if their promotion is set aside by a Promotion Review Committee, their ‘protective’ application will proceed to review. In 2018–19, none of these ‘protective’ applications proceeded to review, either because no unsuccessful applicants from the same selection exercise sought review of their promotion, or there was a review and the Promotion Review Committee upheld their promotion.

Figure 3 shows applications for promotion review from unsuccessful candidates, including how many did and did not proceed to review by a Promotion Review Committee. This shows the number has fluctuated between 2007–08 and 2018–19 (note: Tables 7 and 8 in the Appendix provide a more detailed breakdown of these applications and promotion review caseload).

Figure 3: Trends in applications for a promotion review from unsuccessful candidates considered by Promotion Review Committees, 2007–08 to 2018–19

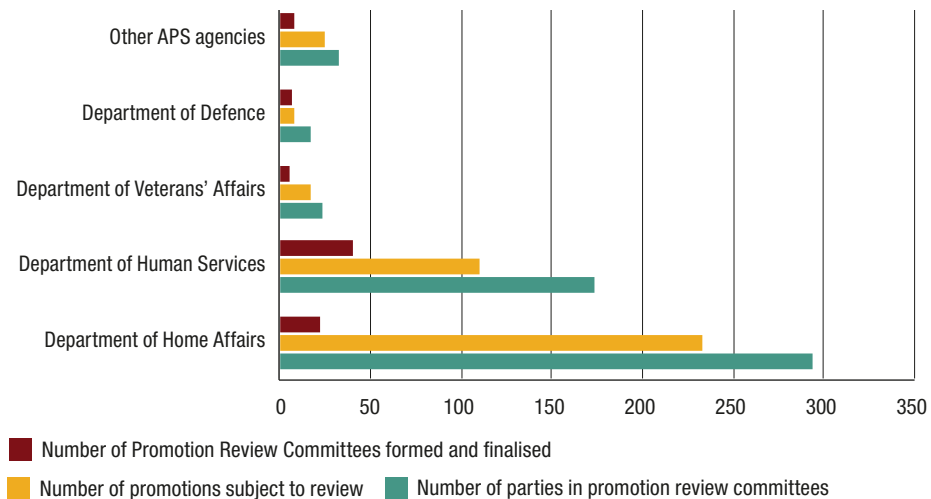


In 2018–19 both the number of applications from unsuccessful applicants and the scale of promotion review exercises increased. This reversed a sharp decrease from the peaks in 2015–16 and 2016–17. These peaks were the result of a significant increase in recruitment activity in large agencies following the lifting of a freeze on recruitment.

The promotion review application rate increased by 15 per cent in 2018–19 following a fall of 45 per cent in 2017–18. We handled 112 applications from unsuccessful applicants in 2018–19 compared with 97 in 2017–18.

These applications related to review of promotion decisions in 11 agencies. Figure 4 shows the number of Promotion Review Committees established and finalised by agency, as well as the number of promotion decisions considered and the number of parties to a promotion review.

Figure 4: Promotion review parties, committees and decisions by agency, 2018–19



As highlighted in Figure 4, the majority of finalised promotion reviews were of promotion decisions made in the Department of Human Services (now called Services Australia) and the Department of Home Affairs.

A party to a promotion review is either an unsuccessful candidate who has applied for promotion review or the person(s) promoted. During 2018–19 the largest number of parties to a promotion review for a single recruitment exercise was 71. This compares with 38 in 2017–18. Nine other recruitment exercises had 10 or more promotion review parties, compared with six in 2017–18. There was also an increase in the average number of applications per recruitment exercise—6.1 in 2018–19 compared with 4.4 in 2017–18.



Promotion Review Committees varied two (0.51%) of the 392 promotion decisions reviewed. This is similar to the percentage of promotion decisions varied in 2017–18 (0.37%) and in 2016–17 (0.49%). When a Promotion Review Committee varies a decision, it means the committee determined on the basis of merit that a review applicant was more meritorious for the position than the APS employee recommended by the selection panel. In these cases the committee's decision is determinative and final. Neither of the two promotion decisions varied involved protective applicants.

The performance target for conducting promotion reviews is that 75 per cent will be completed within either eight or 12 weeks of the closing date for an application, depending on the number of parties to a promotion review. That is, eight weeks for up to 10 parties and 12 weeks for 10 or more parties to a review.

We completed 95 per cent of promotion reviews within target timeframes during 2018–19. Four reviews were not completed within their target time of eight weeks, with only one case more than four days overdue. In this case the promotion review was delayed because a new committee needed to be formed after one member withdrew for unforeseen personal reasons.

Reviews of other actions

Reviews of other actions include:

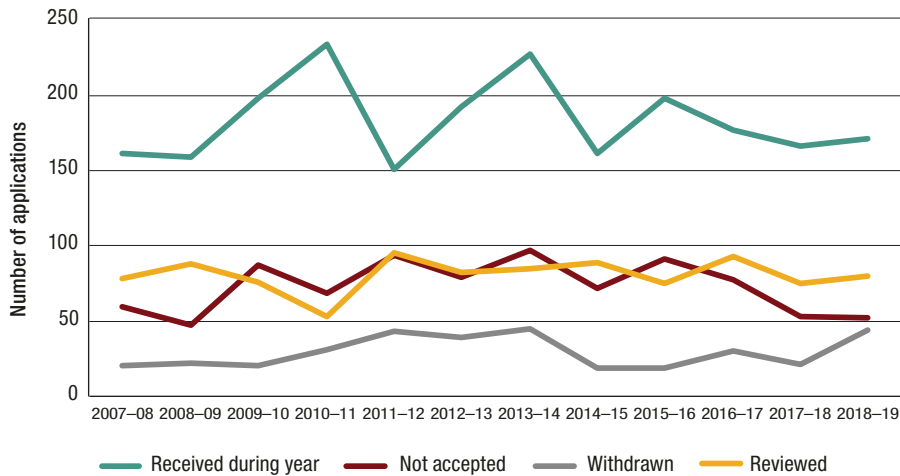
- Primary reviews of a determination that an APS employee has breached the Code of Conduct, a review of a sanction decision, or a review where an internal agency review is not appropriate—in these cases the APS employee does not need to apply for an internal agency review before applying to the Merit Protection Commissioner.
- Secondary reviews of any other employment-related action—in these cases, the APS employee must seek an internal review by their agency before applying to the Merit Protection Commissioner.

These reviews often involve complex decision making and account for the bulk of the work undertaken by staff within the office.

Review caseload and finalisation

Figure 5 shows the trends in review casework in the past 12 years. The total figures have been relatively stable over the last few years, with a slight upward trend this year.

Figure 5: Trends in applications for reviews of other actions, 2007–08 to 2018–19



Note: See Table 2 in the Appendix for information on the number of applications for review (other than promotion review) received and reviews completed in 2018–19 compared with 2017–18.

In 2018–19 we received 171 applications for review, compared with 166 in 2017–18. We finalised 176 cases in 2018–19, including 40 cases carried over from 2017–18. A case is finalised when it is closed for one of the following reasons:

- following a full merits review
- because the application was ineligible or the action was non-reviewable
- because the application was withdrawn
- because the review right lapsed as the applicant left the APS.

Of the 176 finalised cases, 80 were subject to a full merits review. The remainder did not proceed or continue for the other reasons above. The following section provides further information on applications not accepted for review.

Of the matters decided by the Merit Protection Commissioner (that is, where we conducted a review or assessed the application as being ineligible), we finalised 79 per cent during the reporting period. This is an improvement on the previous year where we finalised 68 per cent.

The performance target for reviews of employment actions is that 75 per cent of reviews will be completed within 14 calendar weeks of receipt of an application (excluding time on hold). We exceeded our performance targets in the reporting year, with 82 per cent of review of employment action cases finalised within the target timeframe (compared with 77 per cent in 2017–18).



The average time taken to finalise a case was 10.6 weeks (excluding time on hold). When time on hold is included, the total average time to finalise cases was 17.7 weeks.

Review cases are put on hold when the review is not able to progress. The main reasons are:

- waiting for papers or information from the agency
- waiting for additional information from the applicant
- waiting for an agency to make a sanction decision (an application for review of a decision that an employee has breached the Code of Conduct may be placed on hold pending receipt of an application for review of the sanction arising from the same matter).²

Delays originating in our office, including the 8-day Christmas closure, accounted for a small amount of time cases were placed on hold. Time on hold is not counted against the 14-week performance target.

In 2018–19, on average 40 per cent of the time between the date an application was received and the date the review was finalised was spent on hold. The average time on hold for a finalised review increased slightly from 6.7 weeks in 2017–18 to 7.15 weeks in 2018–19.

Applications not accepted for review

In 2018–19, 25 per cent of applications were not accepted for review. This compares with 28 per cent in 2017–18. The reasons for not accepting applications varied according to the type of review.

The main reasons for not accepting applications for review of Code of Conduct decisions were:

- the application was received outside the timeframe for lodging a review
- the application concerned decisions other than a finding that the employee had breached the Code of Conduct or a sanction decision.

The main reasons for not accepting applications for review of employment action matters other than Code of Conduct decisions were:

- the Merit Protection Commissioner exercised discretion not to review a matter for various reasons, among them that nothing useful would be achieved by continuing to review the matter (28%)
- the applicant needed to first seek a review from their agency (26%)
- the application was about a matter that fell into one of the categories of non-reviewable actions set out in Regulation 5.23 or Schedule 1 to the Regulations (19%)
- the application was out of time (9%).

² In the majority of cases the Merit Protection Commissioner will commence a review of a breach decision irrespective of whether a sanction decision has yet been made. In some cases the Merit Protection Commissioner will wait to commence a review of a breach decision (for example, when the sanction decision is about to be made or at the request of the applicant).

Generally, decisions not to accept applications for review are made quickly—just over half of these decisions are made in two weeks or less. Some decisions can take longer if the decision maker needs to clarify matters of fact with the agency or the review applicant. A total of 36 per cent took four weeks or more. The average time taken to decide to decline an application was just under five weeks.

Case study 1: Further review of an employee’s concerns not justified as no useful outcome could be achieved

An employee sought review of their agency’s response to allegations made by a colleague about the employee’s behaviour, and allegations the employee made about the colleague’s behaviour. The background to this matter was historical conflict between staff of two teams whose functions overlapped.

The agency declined to investigate the employee’s allegations about the colleague. The agency engaged a consultant to investigate the colleague’s allegations about the employee, and a different consultant to conduct a review of the employee’s concerns about the investigation and the handling of his allegations. The employee was found to have behaved inappropriately in one incident. This finding was recorded on the employee’s personnel file but no other action was taken (for example, action under the performance management or misconduct frameworks).

The Merit Protection Commissioner declined to review the employee’s concerns on the basis that further review by either the agency or the Merit Protection Commissioner was not justified in the circumstances. The Merit Protection Commissioner gave the following reasons:

- No substantive adverse outcome for the employee arose from the agency’s handling of this matter.
- The employee’s allegations about the colleague concerned incidents that were several years old and arose from: workplace gossip; speculation about motives; and differences of opinion about the colleague’s authority. The Merit Protection Commissioner considered that further review or investigation was unlikely to prove or disprove the employee’s claims.
- The employee had not identified any outcome from further review that would assist in resolving the workplace dispute. In the Merit Protection Commissioner’s opinion, the employee wanted to be proven correct and this was an unlikely outcome.

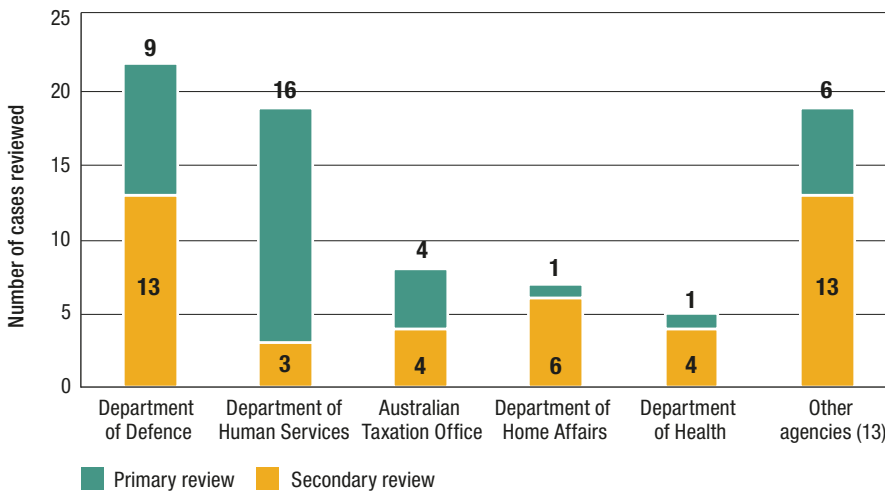
The Merit Protection Commissioner noted that the staff involved in this dispute were relatively senior, and the workplace conflict was ongoing and appeared not to have been resolved by the agency’s interventions. The Merit Protection Commissioner suggested the agency incorporate behavioural expectations, including collaborative working, in the performance agreements of the staff involved in the dispute.



Number of reviews by agency

During the year we completed review of other actions in 18 APS agencies.

Figure 6: Review of action other (primary and secondary) by agency, 2018–19



Note: Table 4 in the Appendix provides greater details on the number of reviews by agency. 'Other' agency category is comprised of 13 agencies with less than four review applications for 2018–19.

In 2018–19 the Department of Defence accounted for 27.5 per cent of the completed reviews and the Department of Human Services accounted for 24 per cent. The Department of Home Affairs and the Australian Taxation Office together accounted for a further 19 per cent of reviews. This differs to 2017–18 when the Department of Human Services accounted for 52 per cent of completed reviews.

Case study 2: Applying a subjective test to an employee's behaviour

An employee was found to have breached two elements of the Code of Conduct (respect and courtesy and upholding the APS Values) for a comment she made to a colleague during a conversation. The employee received sanctions of a reprimand and a small fine.

The review material indicated there was a history of conflict between the two employees, which the workplace was managing, including through alternative dispute resolution.

The finding of misconduct arose from a discussion between the employee and her colleague about a workplace matter. The employee was confused by what her colleague told her and made a comment about the colleague's state of mind. The colleague subsequently complained that he found the comment offensive. His complaint was expressed in very strong terms and indicated that he had reflected on, and interpreted, what the employee had said.

The agency decision maker considered that the employee had engaged in misconduct for 'causing offence' to the colleague. The Merit Protection Commissioner concluded the evidence of what the employee had actually said was unclear. Nevertheless, even if the employee had said what was stated in the complaint, the words attributed to her could not reasonably be viewed as offensive or justify such a strongly worded complaint.

The Merit Protection Commissioner recommended that the finding of misconduct be set aside, noting that the test for establishing whether an employee has breached the Code of Conduct is an objective one (the reasonable person test). In this case, the agency decision maker appeared to have applied a subjective test by accepting the colleague's characterisation of the employee's behaviour without making an assessment of whether a fair minded, independent observer would view the employee's words in this way.

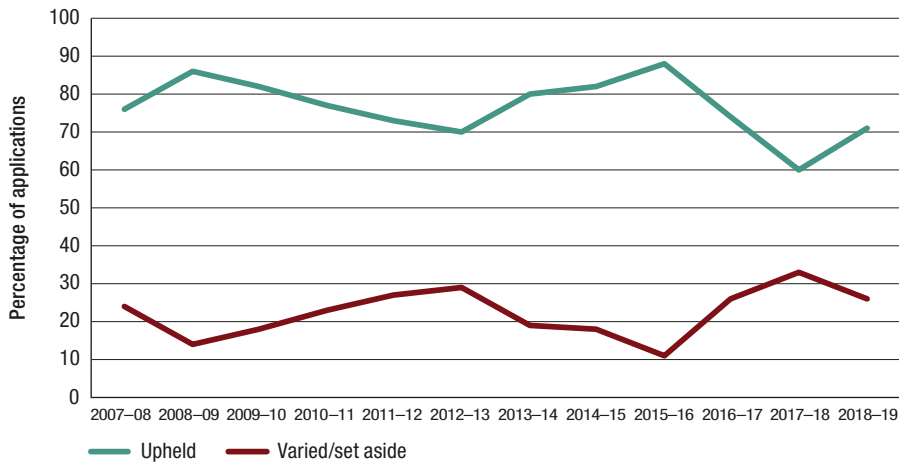
Review outcomes

The Merit Protection Commissioner may recommend to an agency head that a decision be set aside, varied or upheld.

The majority of review of other actions result in the agency decision being upheld. In 2018–19 we upheld 71 per cent of agency decisions or actions in the 80 cases subject to full merits review. As shown in Figure 7, this is higher than the previous year (in 2017–18 we upheld 60 per cent) and similar to the 74 per cent upheld in 2016–17.



Figure 7: Number of agency actions or decisions set aside/varied or upheld, 2007–08 to 2018–19



In 26 per cent of cases we recommended the decision under review be varied or set aside. A further two per cent of cases resulted in a conciliated outcome.

Compared with other types of employment actions, we are more likely to recommend that Code of Conduct decisions be varied or set aside. In the reporting year, 36 per cent of determinations of misconduct or sanctions we reviewed were set aside or varied, compared with 38 per cent in 2017–18. This is higher than for our reviews of other action (that is, secondary reviews where the employment action has been first reviewed by the agency) where we recommended that 19 per cent be varied or set aside, compared with 24 per cent in 2017–18.

Two reviews related to findings that a former APS employee had breached the Code of Conduct. In one case, we recommended the agency decision be varied because one of four breaches was not found, while in the other we upheld the agency decision as it was fair and reasonable.

The main reasons the Merit Protection Commissioner recommends an agency misconduct decision be set aside are:

- procedural problems in the decision making process result in substantive unfairness to the employee
- insufficient evidence to determine that the employee had done what they were found to have done
- assumptions made without sufficient evidence.

The main reasons for recommending an agency misconduct decision be varied are:

- the employee has done only some of what they were found to have done
- the agency has misapplied elements of the Code of Conduct.

The main reasons for recommending other employment decisions (that is, secondary reviews) be set aside or varied are:

- substantial non-compliance with agency policies
- failure to afford procedural fairness in a fact finding inquiry
- insufficient evidence about performance expectations and of the level of performance required
- there has not been proper regard to the employee's personal circumstances in applications for flexible working arrangements.

Thank you for your detailed review. We will take learnings from this matter, including the need for managers to maintain contemporaneous notes [of performance discussions] and clarify directly with the employee when they feel an employee is falling short.

Agency manager—May 2019

Two cases were conciliated during the reporting year, one involving separation entitlements and the other a request for a primary review of the actions of a supervisor. In these cases, the agency or review applicant agreed to act on the Merit Protection Commissioner's preliminary view about an employee's case without the Merit Protection Commissioner making a formal recommendation. By the end of 2018–19, agencies had accepted all our review recommendations. Three agency responses were outstanding at 30 June 2019.



Case study 3: Agency's operating environment a relevant consideration in setting sanction

A level of consistency in sanctions for similar behaviour is desirable across APS agencies. However, because of their operating environment, some agencies view particular behaviours more seriously than might generally be the case.

Integrity agencies with staff employed under the Public Service Act demand the highest standards of integrity and professionalism from their staff because of the nature of their work, the sensitive information they hold and the risk of staff being compromised. These standards are reinforced through processes such as employment suitability screening.

Two employees from different integrity agencies were reduced in classification as a result of a finding of a breach of the Code of Conduct. Both employees argued on review that the sanction they received was unfair, including because the sanction was disproportionate to the objective seriousness of the behaviour.

One employee identified himself on social media as an employee of the agency, in breach of the agency's social media policy, engaging in behaviour that his employer would not approve of. A second employee failed to record her attendance accurately over a six month period accruing a debt to the Commonwealth.

The Merit Protection Commissioner had regard to the sanction decision makers' views of the trustworthiness of both employees. In the first case, the employee was a supervisor and his behaviour demonstrated a lack of mature professional judgement. In the second case, the employee did not demonstrate an intrinsic motivation to do the right thing. The Merit Protection Commissioner also considered the leadership and accountability standards for the employees' classification levels outlined in the APS Work Level Standards.

The Merit Protection Commissioner also considered the need for general deterrence—that in these cases the sanctions demonstrated to agency employees more generally that these behaviours were not tolerated. The Merit Protection Commissioner recommended the sanctions be confirmed.

Reviews by subject matter (excluding Code of Conduct)

As noted elsewhere, reviews of actions (excluding Code of Conduct matters) are typically secondary reviews where the applicant must have sought an internal review by their agency before applying to the Merit Protection Commissioner.

Figure 8 (below) and Table 5 in the Appendix provide a breakdown of secondary review cases by subject matter, excluding Code of Conduct reviews. The majority of reviews relate to same three areas of concern as in 2017–18, that is, performance management, workplace behaviour and access to flexible working arrangements.

Figure 8: Secondary review cases by subject, 2018–19



Note: Excludes Code of Conduct cases.

Case study 4: Review of a performance rating and process

An employee disputed a performance rating of ‘not on track’ based both on his output and behaviours. The employee also claimed that his manager was treating him unfairly and his agency had breached his workplace rights in the way he was managed during the performance cycle.

The employee’s performance agreement was goals focused and included no performance expectations. The employee drafted his agreement including only his career goals and his aspiration to pursue a career outside the agency. However, the Merit Protection Commissioner was satisfied that the employee was aware of the performance expectations in his role. The team he was part of had a team expectations document that covered outputs and behaviours.

There were documented discussions between the employee and his manager on the level of output expected and the manager’s concerns about the employee’s output. The employee disputed that the output expected was reasonable. The Merit Protection Commissioner gave weight to the manager’s views, as the manager was accountable for the performance of the team. In addition, the documentary evidence of the way the manager explained the requirements to the employee, and responded to his concerns, did not suggest the manager’s requirements were unfair or arbitrary.

The Merit Protection Commissioner was also satisfied that the manager’s concerns about the employee’s behaviour were valid. The employee displayed a lack of judgement in his email communications with his colleagues and managers, and in his personal behaviour in the workplace. In the Merit Protection Commissioner’s view, the employee’s behaviour was inconsistent with the behavioural requirements for the team, which included collaborative working and respect for colleagues.

The Merit Protection Commissioner observed that, as evidenced by email communications, the manager had responded to the challenges involved in managing the employee with professionalism, patience and courtesy. The Merit Protection Commissioner found the outcome of the performance management process was fair and complied with the agency’s policy framework, and that the employee’s manager had treated him fairly in assessing and rating his performance.

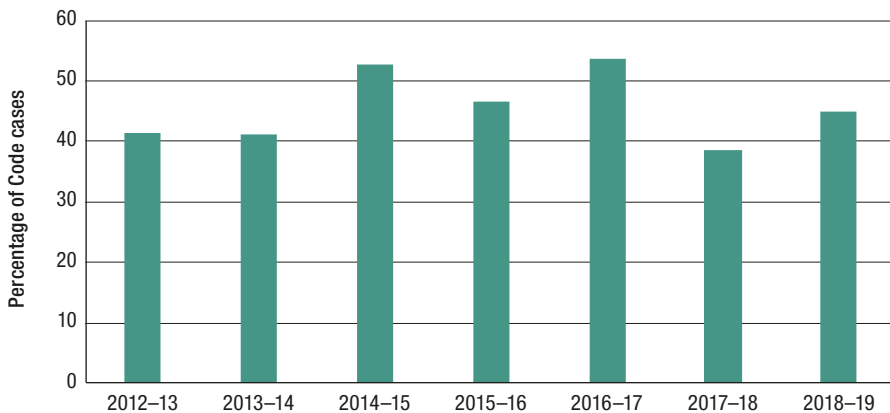


Code of Conduct reviews

APS employees who are found to have breached the Code of Conduct can apply to the Merit Protection Commissioner for a review of the breach finding and/or the sanction imposed. Our review work for Code of Conduct matters provides APS employees with an independent review of an action that is of significance for them. It is also an area of employment decision making that requires monitoring and a degree of oversight.

Data in the Australian Public Service Commissioner's annual *State of the Service Report* for the past three years shows the Merit Protection Commissioner is estimated to review between 4 and 10 per cent of agency Code of Conduct decisions.³ In 2018–19, Code of Conduct cases accounted for 45 per cent of all cases reviewed. Code of Conduct cases had been growing as a proportion of the total caseload (excluding a reduction to 39 per cent in 2017–18).

Figure 9: Trends in proportion of Code of Conduct reviews, 2012–13 to 2018–19



During 2018–19 there were 75 applications for review of a decision that an employee had breached the Code of Conduct and/or the sanction received, and 18 cases on hand on 1 July 2018. We finalised 36 cases during the year, involving 26 employees.⁴ We also reviewed two applications by former employees for review of determinations that they had breached the Code of Conduct.

³ *The State of the Service Report 2017–18* reported 569 employees were found to have breached the Code of Conduct in 2017–18. In 2017–18 we reviewed applications from 23 employees relating to breaches of the Code of Conduct and a further 18 were on hand. While the two sets of data do not include the same employees, a comparison over time provides an estimate that between four to 10 per cent of agency decisions are reviewed.

⁴ Employees may apply separately for a review of a breach determination and the consequential sanction decision. Where this happens, it is counted as two cases, as each is a review of a separate action. This is the reason there are more cases than employees.

Of the 28 cases reviewed (26 current employees and two former employees):

- the decisions were upheld in their entirety in 17 cases
- we recommended the finding of misconduct be set aside in its entirety in four cases
- we recommended that the findings of breach be varied in five cases
- we upheld the breach decision but set aside the sanction decision because of procedural flaws in one case
- we varied the finding that the employee had breached the Code of Conduct but upheld the sanction decision in one case.

We recommended the findings of misconduct be set aside in four cases for the following reasons:

- In one case the employee who worked in an IT security role was found to have breached the Code for inappropriate use of IT resources for gaming, excessive use of Wi-Fi and failure to retain a password that would enable the agency to do a forensic search. We found the agency made assumptions about the employee's activities on insufficient evidence and that the agency policy guidelines did not specify the obligations of staff in specialist IT security roles with respect to password maintenance.
- In one case the agency investigation failed to provide procedural fairness. The employee was provided with a summary rather than the full report into his conduct, thereby withholding credible, relevant and significant evidence.
- In one case the employee had done what the agency accused them of but the agency did not establish that the actions were in breach of the agency's principles-based policy.
- In the final case the employee was found to have engaged in unacceptable personal misconduct in a conversation in the workplace. We found on review that it could not be established what had happened and the complainant's account was neither reliable nor objective. We also found other errors in the decision, such as the use of a subjective, rather than objective, test for establishing a breach and an unenforceable direction.



Case study 5: Failure to give a fair hearing

An employee was found to have breached two elements of the Code of Conduct (respect and courtesy and upholding the APS Values) for his behaviour towards a colleague during a work meeting.

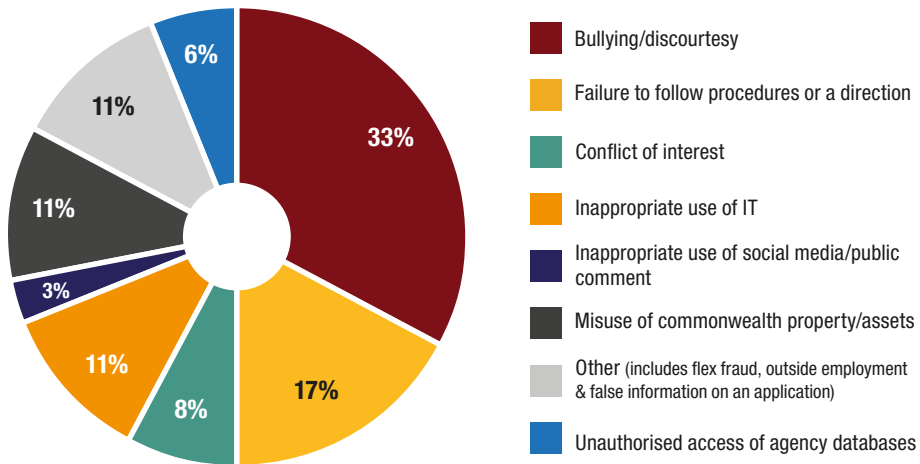
The agency engaged an investigator who interviewed witnesses and prepared an investigation report with findings and recommendations. Because of privacy concerns about the witness evidence, the agency decided to provide the employee with an appendix to the report, which outlined the evidence with respect to the incident, but not the full report. In doing so the agency withheld information in the investigation report, including the witnesses' and investigator's opinions about the employee's general behaviour and witness evidence about the employee's previous behaviour towards the colleague. The agency considered this information was not relevant to the specific facts that needed to be determined, namely the employee's behaviour during the incident.

The Merit Protection Commissioner considered that some of the information withheld from the employee was adverse information relevant to the finding of misconduct. The information indicated the employee had a tendency to behave in the way alleged in the incident. The Merit Protection Commissioner concluded that the employee should have been given an opportunity to comment on this information, or a reasonable summary of it, before the decision was made.

The Merit Protection Commissioner considered that the agency's failure to give the employee a hearing about this information represented a substantive breach of the requirements of procedural fairness and recommended that the Code of Conduct breach determination be set aside on the basis of a serious procedural defect.

Figure 10 (below) and Table 6 in the Appendix provide a breakdown of the types of employment matters dealt with in Code of Conduct reviews.

Figure 10: Code of Conduct cases reviewed, by subject, 2018–19



The largest area of behaviour reviewed as misconduct concerned bullying and discourteous behaviour. The percentage of cases increased this year to 33 per cent, from 24 per cent in 2017–18. In most cases the behaviour was directed at colleagues or managers. However, in two cases managers directed the behaviour at their respective teams.

The conflict of interest matters reviewed concerned employees supporting a friend’s business and failing to declare a conflict of interest, using their position with agency clients in such a way as to seek advantages, and being involved in a recruitment exercise where a family member was selected. The social media matter reviewed concerned the employee involving a junior colleague in filming themselves in the workplace and then posting the video on Facebook in breach of the agency’s social media policy.



Case study 6: A flawed bullying and harassment investigation

Complaints were made about an employee's behaviour in the workplace. The agency responded with a bullying and harassment investigation rather than a misconduct inquiry. The investigation was undertaken under the agency's policy for responding to complaints of bullying and harassment.

The agency advised the employee that the investigation process was informal and on review, in response to the employee's concerns, advised that the process did not have strict procedural fairness requirements.

The investigation resulted in adverse findings about the employee's behaviour. These findings resulted in the employee being issued with a direction with respect to their future behaviour and the denial of performance-based salary advancement.

The Merit Protection Commissioner concluded that the way the investigation was conducted (including terms of reference, interviewing witnesses and taking statements, and developing a report with recommendations) meant the process was a structured and formal workplace investigation, not an informal tool to assist management decision making.

The Merit Protection Commissioner found the investigation process and final decision were procedurally flawed, including for the following reasons:

- the employee was told specific processes relating to the investigation would be followed and they were not
- the investigator did not supply the employee with a copy of the investigation report with findings or an opportunity to comment before giving the report to the decision maker
- the decision maker did not inform the employee of their proposed decision, or the evidence to support the decision, before issuing the behavioural instruction.

The Merit Protection Commissioner recommended the decision be set aside and a fresh investigation be conducted by people with no connection to the matter.

Consistent with the APS Employment Principles, employees are entitled to have fair decisions made. Processes in the workplace that have an investigatory character are workplace investigations. An employee should be notified of the process to be undertaken, and that process should be followed. Employees are entitled to procedural fairness in workplace investigations and, consistent with the hearing rule, should be given an opportunity to rebut any evidence, statement or proposed finding that is adverse or prejudicial to them, before these findings are presented to the decision maker.

Other review-related functions

Under Part 7 of the Public Service Regulations, the Merit Protection Commissioner may:

- investigate a complaint by a former APS employee that relates to the employee's final entitlements on separation from the APS (Regulation 7.2)
- review a determination that a former employee has breached the Code of Conduct (Regulation 7.2A)
- review the actions of statutory officeholders who are not agency heads (Regulation 7.3).

Table 2 in the Appendix provides information on the number of applications made under Part 7 in 2018–19. We received five applications about final entitlements. Four applications were not accepted. In the fifth case, we resolved the former employee's concerns through discussion with the agency, which decided to make the payment in dispute.

During the year we also finalised two applications from former employees for review of determinations of misconduct made after they had ceased APS employment. We upheld one case relating to failure to declare a conflict of interest. The second case involved four incidents of discourteous behaviour in the workplace. We found misconduct in three of the incidents, but noted that the fourth incident did not meet the threshold of seriousness to constitute misconduct.

There were no cases seeking review of the actions of a non-agency head statutory office holder.

Feedback from review applicants

All applicants with a completed review were given the opportunity to provide anonymous feedback to the Merit Protection Commissioner through an online survey. Applicants whose reviews were finalised between July and December 2018 were surveyed in February 2019 (noting the delay was because the survey instrument was being reviewed and updated). Applicants whose reviews were finalised in 2019 were usually surveyed within two weeks of receiving advice about the outcome of their review.

The response rate for the survey was 26.5 per cent (18 respondents). This compares with 37 per cent in 2017–18 and 18 per cent in 2016–17.

The feedback shows that 50 per cent of respondents found out about their review rights from the Merit Protection Commissioner website. The next most significant source of information was their agencies. Two-thirds of applicants agreed the Merit Protection Commissioner website was easy to navigate, a further 17 per cent did not agree, and 17 per cent were neutral. Suggestions for improving the website included providing a clearer explanation of the process, the scope of reviews and expected timeframes, as well as greater use of case summaries.



There was general satisfaction with the application process. The majority of respondents found:

- the application forms were easy to lodge (72%) and easy to fill in (89%)
- the information sheet provided to them after they made their application was the right length, contained the information they needed, and was relevant and easy to follow and understand (80%).

On contact and dealings with Merit Protection Commissioner staff, approximately three-quarters of respondents reported that they were advised of who they should contact in the office (78%), received adequate information at the beginning of the review to understand how the review would proceed (72%), had their phone calls and emails responded to in a timely manner (78%) and were given the opportunity to submit information supporting their review application (72%).

However, only two-thirds of respondents reported that they were given appropriate information about the scope of the review, and only half considered they received enough updates about the progress of their review. In addition, only half considered they understood what information they needed to provide in their written submission.

Of the 16 applicants who could recall, 56 per cent (nine) were told how long the review would take and 56 per cent of these reviews were completed within that timeframe.

The above results suggest that at the beginning and throughout the review process, we need to provide applicants with better information about the contact point in the office, the scope of their review, what information is needed (and what is not required), what they can expect to achieve, and the expected timeframes. This will be an area of focus in the coming year.

When it came to feedback on the outcome and satisfaction with the review process, the views of respondents are generally polarised, correlating with their satisfaction with the outcome. Only 39 per cent thought the review was completed in an independent and impartial way, and 44 per cent thought the review process was fair and equitable. A total of 56 per cent stated they would recommend the process to a colleague.

I am very appreciative of the time you have spent going through the whole matter, sourcing all the facts necessary and allowing me to provide my views.

Review applicant—March 2019

The reasons for the negative responses included:

- failure by the Merit Protection Commissioner's office to invite submissions, contact the applicant in person, or allow them to respond to submissions/preliminary view in a similar timeframe given to agencies

- not addressing the applicant’s concerns
- the applicant’s perceptions that the agency’s submissions and views were given greater weight than their views
- the applicant’s perception that the process was biased and favoured the agency, which had more resources
- the process was not timely.

Three of the respondents in particular were very disparaging of the Merit Protection Commissioner and their experience of the review process (for example, describing it as ‘a waste of time’, ‘my claims [were] condescendingly dismissed out of hand by your biased and partisan Reviewer’). However, the six respondents who indicated their outcome was a set aside were highly supportive of the review process. Their views on the decision letter/report were all positive and they considered the process to be fair, impartial and unbiased, and would recommend the process to a colleague.

I would like to compliment your team member...in relation to her interaction with me when advising me of the outcome of a recent matter...While it wasn't the outcome I wanted, the way in which [team member] contacted me and spoke to me was far greater than anything I expected from an Australian Government employee.

Review applicant—July 2019

Some of the survey responses suggested the need for improvements in relation to a number of procedures and practices. These included having a greater degree of personal contact with the applicant (and for some applicants, any contact at all), clearer pathways for lodging applications, providing better advice on the scope and timing of the review, and providing progress reports. We will address these matters during 2019–20.

Inquiry functions

Under section 50(1)(b) of the Public Service Act, the Merit Protection Commissioner may:

- inquire into public interest disclosures (within the meaning of the *Public Interest Disclosure Act 2013*) relating to breaches of the Code of Conduct
- inquire into complaints that the Australian Public Service Commissioner has breached the Code of Conduct and report on the results of any inquiry to the Presiding Officers of the Parliament, including any proposed sanction
- at the request of the Public Service Minister, inquire into an APS action.



Provisions were inserted into the Public Service Act to enable the Merit Protection Commissioner to inquire into public interest disclosures. However, the Commissioner was not prescribed in Public Interest Disclosure Rules as an authorised officer, so agencies are unable to refer disclosures to her. The Merit Protection Commissioner may inquire into a disclosure if the disclosure was made to an agency head and the discloser is not satisfied with the outcome. We finalised one such application for an inquiry in 2018–19.

The applicant made a disclosure to their agency. The matter was investigated, however, the applicant considered that the agency head may not have implemented appropriate measures under the Code of Conduct. The Merit Protection Commissioner considered the request and sought further information. The Commissioner declined to inquire into the disclosure, as she was of the opinion that any inquiry would be unlikely to result in any recommendation to the agency to undertake action under the Code of Conduct.

Two complaints that the Australian Public Service Commissioner had breached the Code of Conduct were under investigation at the start of the reporting year. Both matters were concluded on 7 August 2018, when the Merit Protection Commissioner provided the final report to the Presiding Officers of the Parliament.

There was no request from the Public Service Minister to inquire into an APS action during 2018–19.

Statutory services provided on a fee for service basis

Inquiries into breaches of the Code of Conduct

Under section 50A of the Public Service Act, the Merit Protection Commissioner may inquire into and determine whether an APS employee or a former employee has breached the Code of Conduct, if a request is made by the agency head. The inquiry must have the written agreement of the employee or former employee. The Merit Protection Commissioner charges a fee for inquiries done under this section.

Three cases were received during the reporting year. Two cases were withdrawn because the employee did not consent to the inquiry. An inquiry commenced into the third case but was not finalised on 30 June 2019. This matter involved allegations of bullying.

Table 9 in the Appendix sets out further information on inquiries by the Merit Protection Commissioner under section 50A for 2018–19.

Independent Selection Advisory Committees

If requested, the Merit Protection Commissioner may establish Independent Selection Advisory Committees to help with agencies' recruitment processes. These committees are independent three-member bodies that perform a staff selection exercise on behalf of an agency and make recommendations about the relative suitability of candidates for jobs at the APS 1 to 6 classifications. The convenors are employees working for the Merit Protection Commissioner.

Agency demand for the committees was lower in 2018–19, with only one agency requesting the use of Independent Selection Advisory Committees, compared with three in 2017–18. However, the recruitment exercise was large, covering a recruitment campaign for APS 6 vacancies in 11 locations in five states. Five committees were established. They considered 877 candidates and recommended 131 candidates for engagement, transfer or promotion—an average of 175 candidates and 26 recommendations per committee, compared with an average of 39 candidates and eight recommendations in 2017–18.

As the national campaign involved different committees, we worked with the agency and the convenors before the selection process commenced to ensure a consistent approach. We also held regular meetings with the convenors to address common issues including the handling of applicants who applied for multiple vacancies across the states.

Table 10 in the Appendix provides information on Independent Selection Advisory Committee activity for 2018–19, compare with to 2017–18.

Non-APS fee for service work

In accordance with Regulation 7.4, the Merit Protection Commissioner can offer other fee for service activities, such as staff selection services and investigating grievances, to non APS-agencies. No work was carried out under Regulation 7.4 during 2018–19.

3. Stakeholder engagement, business improvement and governance



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Working with stakeholders

In 2018–19 we continued our outreach to APS agencies, human resources practitioners and employees regarding lessons learnt from the review caseload. The aim of working with internal and external stakeholders is to improve employment-related decision making in the APS.

During 2018–19:

- The Merit Protection Commissioner or her staff had 70 contacts with stakeholders—either through meetings or presentations.
- The Merit Protection Commissioner undertook a series of meetings with senior staff in agencies when she started in the role.
- The Merit Protection Commissioner and senior staff met with senior executives and practitioners in agencies to discuss specific case outcomes, including outcomes that raised broader issues about agency policy and practice. These included the largest agencies—the Australian Taxation Office, Department of Defence and Department of Human Services.
- The Sydney-based Review of Action and Code of Conduct Community of Practice for APS practitioners continued to meet. The group held three meetings in 2018–19 (November, February and May), one of which was chaired by the Merit Protection Commissioner. Issues of interest discussed by group members included consistency of sanctions, managing mental health, handling unreasonable complainants, and alternative dispute resolution.
- The Merit Protection Commissioner made a presentation to a Working Together Conference conducted by the Australian Taxation Office in March 2019 and also met with a delegation from Taiwan in November 2018.
- In March 2019 a senior employee represented the Merit Protection Commissioner at three APS-wide graduation development programs focusing on recruitment and staff engagement. The sessions were part of the Australian Public Service Commission's APS graduate program. In April 2019 another staff member gave a presentation to the APS Small Agencies Forum on performance management and the Code of Conduct.

The Merit Protection Commissioner contributes to the ethics and integrity framework as a member of the Integrity Agencies Group. The group enables information sharing and collaboration between statutory office holders and agencies with responsibility for integrity matters. The Merit Protection Commissioner attended two meetings in 2018–19.

Staff also attend the Ethics Contact Officer Network meetings run by the Integrity, Performance and Employment Policy Group within the Australian Public Service Commission. The network promotes the Government's ethical agenda, which focuses



on enhancing ethics and accountability in the APS and is another forum we can use to encourage good decision making.

We also worked with agencies to help them manage promotion review processes and provide feedback on the effectiveness of their selection processes. The focus was agencies conducting bulk promotion exercises, such as the Department of Home Affairs. In addition, we discussed matters related to promotion review with the policy teams in the Australian Public Service Commission, to ensure consistency of advice to agencies.

Business improvements

During the reporting year, the Merit Protection Commissioner began reviewing our strategy and operations. While last year's report stated this should have been completed by this financial year, this work was still ongoing at the end of the reporting period. We held an employee planning day in December 2018, and have done preliminary work to develop a strategic plan and business plan. A marketing and communications strategy was also drafted during the relevant period.

Staff performance and activities

We have worked on documenting role descriptions and standards of performance to strengthen the performance management procedures within our office. We are making greater use of technology in monitoring attendance and leave, and processes for recording staff training and participation in meetings and presentations.

Review procedures manual

In early 2019 we began a project to update our procedural guides and develop decision making tools to support review advisers.

Merit Protection Commissioner's website

The Merit Protection Commissioner's website was moved to the GovCMS platform during the reporting year. As part of this process we reviewed and updated our website content.

Improving papers distribution for Promotion Review Committees

During the year we moved to using Govteams, a collaborative working space administered by the Department of Finance. Govteams facilitates the exchange of information and documents electronically between APS agencies and the office of the Merit Protection Commissioner. Importantly, Govteams allows papers to be provided to Promotion Review Committee members.

Changes to review case management processes

At the start of 2019, we introduced changes to case handling to improve efficiency and timeliness in handling reviews, and to promote a risk management approach to handling reviews.

We introduced a system of triage for handling review cases, which involves a *prima facie* assessment of the significance and risk attached to particular review matters to inform who the case is allocated to and the way it is handled.

The Merit Protection Commissioner has also expanded the number of staff with delegations to perform her functions. Previously only officers at the EL2 were given delegations. However, EL1 officers who have demonstrated an ability to independently conduct reviews have now also been given delegations. We introduced a supervision model in which less experienced delegates are supervised by more experienced delegates.

We also introduced fortnightly case management meetings of review staff to share learnings and identify agency-specific and systemic issues, which were fed back to agencies.

Training for Merit Protection Commissioner’s casual staff and Merit Protection Commissioner’s nominees

The Merit Protection Commissioner maintains registers of suitably qualified non-ongoing (casual) staff to undertake statutory functions, including convening Promotion Review Committees and Independent Selection Advisory Committees and conducting inquiries into alleged breaches of the Code of Conduct. New contracts were issued to non-ongoing employees in January 2019.

On every Promotion Review Committee there must be a nominee of the Merit Protection Commissioner. These nominees are agency staff from across the APS who have the necessary knowledge and expertise to participate in a promotion review process. The role is important as the Merit Protection Commissioner nominee is, and is seen to be, an impartial and independent APS employee. The APS employees undertake this role on a voluntary basis and their agency head makes them available to perform the role. Our register of Merit Protection Commissioner nominees had not been reviewed or updated for a considerable period of time, and during 2018–19 we refreshed this list.

During November and December 2018 we sought applications from APS employees wanting to be placed on the register of qualified Merit Protection Commissioner nominees, through direct communication to agency heads and other senior executives, and by advertising in the APS Gazette. We received 67 applications, which we assessed for experience and suitability. All applicants were registered as suitable to be a Merit Protection Commissioner nominee on future Promotion Review Committees. We also sought interest from existing nominees to continue to perform the role, and 50 APS employees decided to continue in the voluntary role.



All nominees must be trained by Merit Protection Commissioner or her staff before they can undertake the role on a Promotion Review Committee. The Merit Protection Commissioner and her staff conducted this training across Australia for new and existing nominees during April to June 2019 as set out in Table 1.

Table 1: Attendees at training sessions for Merit Protection Commissioner nominees on Promotion Review Committees

Date	Location	Number of attendees
30 April 2019	Sydney	10
14 May 2019	Canberra	30
15 May 2019	Hobart	5
16 May 2019	Melbourne	18
17 May 2019	Adelaide	2
20 May 2019	Perth	4
22 May 2019	Brisbane	6
5 June 2019	Sydney	7

The Merit Protection Commissioner is grateful to the Australian Taxation Office, the Department of Human Services and the Office of the Australian Information Commissioner for making training rooms available in their premises for the nominee training.

We also provided training to five Independent Selection Advisory Committee panels and to a new employee engaged to conduct Code of Conduct inquiries. The Independent Selection Advisory Committee training was held in March 2019 and involved four sessions for 13 people located in five states, and a discussion with the agency delegate.

Governance and management

The Australian Public Service Commission is included in the Department of the Prime Minister and Cabinet's Portfolio Budget Statements. The Australian Public Service Commissioner, as head of the Commission, is responsible for the Commission's financial and human resources and for assessing the level of the Commission's achievement against its outcome.

During 2018–19 the Merit Protection Commissioner had managerial responsibility for the work of the Commission employees made available to work in the Office of the Merit Protection Commissioner.

In 2018–19 the Merit Protection Commissioner was a member/observer of the Australian Public Service Commission's Executive, a senior management group chaired by the Australian Public Service Commissioner.

Staffing and office locations

The staff who support the Merit Protection Commissioner's work are made available by the Australian Public Service Commissioner in accordance with section 49 of the Public Service Act.

The Merit Protection Commissioner is based in the Commission's Sydney office and has staff in the Australian Public Service Commission's Sydney and the Canberra offices. During 2018–19 the Merit Protection Commissioner was supported by 12 staff in 11 ongoing positions. Of these:

- three positions are at the EL2 level with one job-share arrangement
- five positions are at the EL1 level
- one position is at the APS 5 level
- two positions are at the APS 4 level.

The small number of staff means we are organised along functional lines, with staff performing more than one function and reporting to one or more supervisors. The main functional/team areas are: review of action and promotion review casework; policy and projects; fee for service casework; and Merit Protection Commissioner inquiries.

The Merit Protection Commissioner also maintains a register of suitably skilled people who are engaged as casual employees at the EL2 or EL1 level. These staff may be engaged as required for irregular or intermittent duties (for example, to chair a Promotion Review Committee or undertake fee for service activities). There were 14 employees listed as casual employees during 2018–19. Throughout the year, casual employees undertook work equivalent to approximately one ASL.

Financial arrangements and corporate support

The Merit Protection Commissioner is neither a Commonwealth entity nor an accountable authority for the purposes of the *Public Governance, Performance and Accountability Act 2013*. Rather, she is a statutory officer appointed by the Governor-General under section 52 of the *Public Service Act 1999*. Section 49(2) of the Act requires that the staff necessary to assist the Merit Protection Commissioner must be persons engaged under that Act and be made available by the Australian Public Service Commissioner. Consequently the Merit Protection Commissioner does not have a separate budget allocation and depends on the Australian Public Service Commission for its staffing levels and resources more generally to undertake its functions.



For 2018–19 the Merit Protection Commissioner was allocated an annual budget (excluding corporate costs) of \$1.76 million.

The Merit Protection Commissioner and the Australian Public Service Commissioner have a memorandum of understanding for the provision of staff and corporate services. The current memorandum of understanding took effect in June 2015.

Interaction of the roles of the Merit Protection Commissioner and the Australian Public Service Commissioner

The respective responsibilities of the Merit Protection Commissioner and the Australian Public Service Commissioner are established in the Public Service Act. The roles are complementary, particularly in relation to maintaining confidence in public administration.

The Australian Public Service Commissioner is responsible for upholding high standards of integrity and conduct in the APS. The Merit Protection Commissioner assists by ensuring consistent standards of decision making and people management practices across the APS, and also provides an important assurance role for the APS. This assurance is provided by reviewing individual actions or decisions for consistency with the APS Values and other administrative law requirements, and through reviews of determinations of breaches of the Code of Conduct and/or sanctions.

Judicial review of Merit Protection Commissioner reviews

In November 2018 an employee sought review by the Merit Protection Commissioner of a decision to suspend him from employment. We reviewed the case and recommended the agency's decision be upheld. The employee sought review under the *Administrative Decisions (Judicial Review) Act 1977*. The matter was heard in the Federal Circuit Court of Australia and the application was dismissed (*Smith v Australian Criminal Intelligence Commission & Anor [2019] FCCA 1811 (28 June 2019)*).

Freedom of information and privacy

We handled six applications under the *Freedom of Information Act 1982* during 2018–19. Five related to access to review or inquiry papers, including one request from a third party for review of a decision to release their personal information. The remaining application related to the Merit Protection Commissioner's attendance at an event. One decision was made to release information, one staff selection matter was transferred to the employing agency, no papers were located in one case, three requests were withdrawn after the information was released outside the Freedom of Information scheme.

The Australian Information Commissioner released one review of a Merit Protection Commissioner's decision in 2019 (*PU and Merit Protection Commissioner (Freedom of information) [2019] AICmr 4 (18 January 2019)*). Following a request for documents by a review applicant, the Merit Protection Commissioner decided that a draft review of actions report prepared for a delegate would not be provided in full. The Australian Information Commissioner upheld this decision, considering that the factors against disclosure outweighed the factors in favour of disclosure.

A second review was lodged with the Australian Information Commissioner in 2018–19, and as at 30 June 2019, that review had not been finalised.

Information publication scheme

Information on the Merit Protection Commissioner and her role and functions is available on her website: <https://www.meritprotectioncommission.gov.au>.

Information is also in the Australian Public Service Commission's plan, which is available at: <https://www.apsc.gov.au/information-publication-scheme-ips>.

4. The year ahead



merit

Priorities in 2019–20

Consistent with previous years, the priorities for next year are:

- raising the profile of the office with APS employees and agencies by implementing the communication plan and redeveloping the Merit Protection Commissioner’s website
- continuously improving the quality and timeliness of our work , including through the supervision model
- supporting agencies to improve their decision making through presentations to practitioners on good practice in decision making and people management
- supporting agencies in complex case management, including through the Code of Conduct inquiry service
- developing decision support tools, in particular procedural manuals accessible to Merit Protection Commissioner staff through a portal on the intranet
- transitioning the Merit Protection Commissioner case management system to the Australian Public Service Commission’s protected network and improving its functionality, including reporting
- working with the Australian Public Service Commission on integrity and people management issues and better integrating lessons learned from review work to inform policy development.

In the year ahead the Merit Protection Commissioner will finalise the review of strategy and operations that commenced in 2018–19. This will focus on priority areas, and on aligning and designing structure and strategy for maximum efficiency and performance of the Merit Protection Commissioner’s functions. The review will also identify or enhance initiatives for working collaboratively with other stakeholders, as well as considering the potential expansion of statutory functions (Code of Conduct inquiries and staff selection) and providing non-statutory employment-related services to non-Commonwealth bodies.



APPENDIX:

DATA TABLES FOR STATUTORY FUNCTIONS

This appendix provides information on the activity and performance of the Merit Protection Commissioner's statutory functions. Information on the Merit Protection Commissioner's functions can be found on her website:
<https://www.meritprotectioncommission.gov.au>.

Review of employment actions

Under section 33 of the Public Service Act and Part 5 of the Regulations, the Merit Protection Commissioner conducts three main categories of reviews:

- reviews of breaches of the APS Code of Conduct (called a primary review)
- reviews of other employment actions (called a secondary review)
- reviews of promotion decisions.

The target timeframe for completion of primary and secondary reviews is 14 weeks from receipt of application.

Table 2 provides information on the number of applications for review (other than promotion review) received and completed in 2018–19.

Table 3 provides information on the timeliness of this function.

Both tables compare results for 2018–19 with those for 2017–18.

Table 2: Review of employment actions workload for 2018–19, by type of review, compared with total reviews in 2017–18

Cases	Primary reviews—Code of Conduct	Primary reviews—other	Secondary reviews	Complaints/reviews by former employees	Total	
	2018–19				2018–19	2017–18
On hand at start of year	18	3	18	1	40	23
Received during the period	75	13	77	6	171	166
Total cases	93	16	95	7	211	189
Reviewed	36	4	37	3	80	75
Not accepted	9	9	30	4	52	53
Lapsed or withdrawn	27	3	14	0	44	21
Total finalised during period	72	16	81	7	176	149
On hand at end of year	21	0	14	0	35	40

Note: Primary reviews are reviews conducted by the Merit Protection Commissioner without first being reviewed by the agency head. Secondary reviews are conducted by the Merit Protection Commissioner following a review conducted by the agency head or after the agency head decides the matter is not reviewable but the Merit Protection Commissioner considers it is.

Table 3: Timeliness in handling reviews, 2018–19 compared with 2017–18

Review type	2017–18		2018–19	
	Average time to complete reviews (weeks)	Completed within target timeframes (%)	Average time to complete reviews (weeks)	Completed within target timeframes (%)
Primary reviews—Code of Conduct	11.96	79	10.94	86.1
Primary reviews—other	14.57	50	14.11	75
Secondary reviews	11.27	78	9.83	81.1
Reg Part 7 casework	7.17	66.7	10.62	66.7
Total	11.48	77.3	10.6	82



Table 4 details the number of reviews by agency concerned.

Table 4: Reviews completed by agency, 2018–19

Agency concerned	Primary reviews—Code of Conduct	Primary reviews—other	Secondary reviews	Reviews/complaints by former employees	Total
Department of Defence	12	0	9	1	22
Department of Human Services	3	0	16	0	19
Australian Taxation Office	4	0	4	0	8
Department of Home Affairs	6	0	1	0	7
Department of Health	2	0	1	2	5
Department of Social Security	2	1	0	0	3
Department of Veterans' Affairs	3	0	0	0	3
Australian Criminal Intelligence Commission	1	0	1	0	2
National Disability Insurance Agency	0	0	2	0	2
Nine other agencies (one review each)	3	3	3	0	9
Total	36	4	37	3	80

Table 5 shows the main subject matter and the secondary subject matters for all secondary cases reviewed in 2018–19. The data in Table 5 is not directly comparable with the data in the previous tables because a review may involve more than one subject matter.

Table 5: Subject matter of reviews completed (other than Code of Conduct), 2018–19

Subject matter	Secondary subject matter	Number
Salary, allowances and other payments	Allowances/entitlements	2
	Salary	3
	Bonus/special payments	1
Subtotal		6
Flexible working arrangements	Return to work arrangements	1
	Relocation or outposting	2
	Fitness for duty assessment	1
	Hours of work	3
Subtotal		7
Performance management	Unsatisfactory performance	3
	Probation assessment/process	1
	Performance pay	2
	Performance appraisal	6
Subtotal		12
Workplace behaviour	Handling of bullying complaints	4
	Counselling	1
	Suspension	2
	Workplace directions or warnings	3
Subtotal		10
Leave	Leave	7
Subtotal		7
Other	Management practices	2
	Misconduct procedures	2
	Separation entitlements	1
Subtotal		5
Total		47

Note: Excludes Code of Conduct cases.



Table 6 shows the subject matter for all Code of Conduct cases reviewed in 2018–19. The data in Table 6 is not directly comparable with the previous tables because a review may involve more than one main subject, and to avoid double counting of the same behaviour in a review of both the Code of Conduct breach and sanction.

Table 6: Subject matter of Code of Conduct reviews completed, 2018–19

Subject matter identified	Number
Conflict of interest	3
Bullying and discourtesy	12
Unauthorised access of agency databases	2
Inappropriate use of IT resources	4
Inappropriate use of social media/public comment or privacy breach	1
Misuse of Commonwealth property/assets	4
Failure to follow a direction or procedures	6
Other (including financial irregularities and providing false information)	4
Total number of matters identified	36

Review of promotion decisions

The Merit Protection Commissioner establishes Promotion Review Committees to conduct reviews of promotion decisions for jobs at the APS 1 to 6 classifications. The applications that trigger the establishment of a promotion review case are:

- applications from unsuccessful candidates (that is, ongoing APS employees who have applied for a promotion and have been unsuccessful)
- ‘protective applications’ (that is, applications from individuals who been promoted but who apply for review of the promotion of another APS employee in the same selection exercise).

Table 7 shows the 30 June status of applications from unsuccessful candidates for 2018–19 compared with 2017–18.

Table 7: Status of promotion review cases at 30 June 2019, compared with 30 June 2018

Promotion review cases	2017–18	2018–19
On hand at start of year	3	24
Established during the period	97	112
Total caseload	100	136
Reviewed (by Promotion Review Committee)	57	82
Invalid (e.g. applicant not an ongoing APS employee)	5	8
Lapsed (e.g. a protective application where no unsuccessful application received) or withdrawn	14	32
Total finalised during period	76	122
On hand at end of year	24	14
Target completion time (weeks)	8 or 12	8 or 12
Number completed within target time	57	78
Percentage completed within target time	100%	95%

Table 8 shows the promotion review caseload by agency for 2018–19.

Table 8: Promotion review caseload, by agency, 2018–19

Agency	Number of parties to a promotion review process	Number of promotions subject to review	Number of Promotion Review Committees formed and finalised	Number of promotion decisions varied
Department of Home Affairs	294	233	22	0
Department of Human Services	173	110	40	1
Department of Veterans' Affairs	23	17	5	0
Department of Defence	17	8	7	1
Other APS agencies	32	24	8	0
Total	539	392	82	2



Fee-related services

Section 50A of the Public Service Act enables the Merit Protection Commissioner to inquire into and determine whether an APS employee or former employee has breached the Code of Conduct. Table 9 sets out information on Code of Conduct inquiry activity for 2018–19 compared with 2017–18.

Table 9: Code of Conduct inquiries, 2018–19 compared with 2017–18

Status	2017–18	2018–19
On hand at start of year	1	0
Received during the period	4	3
Total caseload	5	3
Completed	4	0
Lapsed/withdrawn	1	2
Total finalised during the period	5	2
On hand at end of year	0	1

ISACs are established by the Merit Protection Commissioner at an agency head's request on a fee for service basis under Part 4 of the Regulations. Table 10 sets out information on Independent Selection Advisory Committee activity for 2018–19 compared with 2017–18.

Table 10: Independent Selection Advisory Committees, 2018–19 compared with 2017–18

Status	2017–18	2018–19
On hand at start of year	5	0
Received during the period	14	5
Total caseload	19	5
Completed	16	5
Lapsed/withdrawn	3	0
Total finalised during the period	19	5
On hand at end of year	0	0

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