



# Parliamentary Service Commissioner Report

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**2020–21**

Incorporating the report of the  
Parliamentary Service Merit Protection  
Commissioner



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# PARLIAMENTARY SERVICE COMMISSIONER REPORT

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2020–21

Incorporating the report of the Parliamentary  
Service Merit Protection Commissioner





The Hon Andrew Wallace MP  
Speaker of the House of Representatives  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

Senator the Hon Slade Brockman  
President of the Senate  
PO Box 6100  
Senate  
Parliament House  
Canberra ACT 2600

Dear Mr Speaker and Mr President

PARLIAMENTARY SERVICE COMMISSIONER REPORT 2020-21

In accordance with Section 42(1) of the *Parliamentary Service Act 1999*, I present to you the Parliamentary Service Commissioner Report 2020-21.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Peter Woolcott', with a long, sweeping flourish extending to the right.

Peter Woolcott AO

10 January 2022



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# COMMISSIONER'S OVERVIEW

The principal functions of the Parliamentary Service Commissioner are to advise the Presiding Officers on the management of policies and practices of the Parliamentary Service and to conduct any inquiries about the Parliamentary Service at the request of the Presiding Officers.

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

On 23 September 2021, the Parliamentary Workplace Support Service was established as a function of the Parliamentary Service Commissioner, via an amendment to the *Parliamentary Service Act 1999—Parliamentary Service Amendment (Independent Parliamentary Workplace Complaints Mechanism) Determination 2021*.

Establishment of the Parliamentary Workplace Support Service is outside the scope of this reporting period and will be incorporated into the 2021-2022 Report.

A handwritten signature in blue ink, appearing to read 'Peter Woolcott', followed by a long, sweeping flourish that extends across the width of the page.

Peter Woolcott AO

Parliamentary Service Commissioner

10 January 2022

## INTRODUCTION

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

As at 30 June 2021, the President of the Senate, Senator the Hon Scott Ryan, and the Speaker of the House of Representatives, the Hon Tony Smith MP, were the Presiding Officers of the Parliament.

In addition to their procedural roles in the Chambers, the Presiding Officers are responsible for the provision of services to the Parliament. They have individual responsibility, respectively, for the Department of the Senate and the Department of the House of Representatives, and joint responsibility for the Parliamentary Budget Office (PBO) and the Department of Parliamentary Services (DPS).

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

Mr Peter Woolcott AO is the Parliamentary Service Commissioner (the Commissioner) and holds the office of the Australian Public Service (APS) Commissioner concurrently.

Ms Linda Waugh is the Parliamentary Service Merit Protection Commissioner and holds the office of the APS Merit Protection Commissioner concurrently.

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

## ADMINISTRATION OF THE PARLIAMENTARY SERVICE

### PARLIAMENTARY SERVICE COMMISSIONER'S ROLE

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

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

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

The Parliamentary Service Commissioner chaired the selection panel for the vacated Commonwealth Parliamentary Budget Officer position. The position was advertised in March 2020 and was finalised in October 2020.

Subsection 71(1) of the Act allows the Presiding Officers to make a determination conferring functions on the Parliamentary Service Commissioner as required or permitted by the Act to be prescribed by determinations, or that are necessary or convenient for carrying out or giving effect to the Act.

On 23 September 2021, the *Parliamentary Service Amendment (Independent Parliamentary Workplace Complaints Mechanism) Determination 2021*, was made. It confers a new function on the Parliamentary Service Commissioner for the purposes of s 40(1)(d) of the *Parliamentary Service Act 1999*.

The Parliamentary Workplace Support Service was established to give effect to the new function. As a function of the Parliamentary Service Commissioner, it is independent of the government, of the political parties and the individual employing parliamentarians or *Members of Parliament (Staff) Act 1984* employees.

### ***Roles and responsibilities of the individual departments***

Four parliamentary departments are established under the Act:

- The Department of the Senate and the Department of the House of Representatives provide advice and support to the Senate, the House of Representatives, Senators, Members and parliamentary committees.
- DPS provides a range of support for the Parliament and for Parliament House. Support includes library and research services, information and communication technology services, security services, building, ground and design integrity services, audio visual and Hansard services, art services, visitor services, food and beverage services, retail, health, banking and childcare services.
- The PBO supports the work of parliamentarians by providing independent and non-partisan analysis of the budget impact of policy proposals and by publishing reports on budget issues.

## **SECRETARIES**

Under the Act, the Secretaries of the parliamentary departments have roles and responsibilities similar to those of APS agency heads:

- The appointment of the Clerks of the Senate and the House of Representatives are made by the President and Speaker, respectively, after consulting Senators and Members.
- The Secretary of DPS is appointed by the Presiding Officers after receiving a report from the Commissioner.
- The Parliamentary Budget Officer is appointed by the Presiding Officers after obtaining the approval of the Joint Committee of Public Accounts and Audit.

### ***Department of the Senate***

The Secretary of the Department of the Senate is Mr Richard Pye, Clerk of the Senate.

### ***Department of the House of Representatives***

The Secretary of the Department of the House of Representatives is Ms Claressa Surtees, Clerk of the House of Representatives.

### ***Parliamentary Budget Office***

The Parliamentary Budget Officer and the Secretary of the Parliamentary Budget Office is Dr Stein Helgeby. Dr Helgeby was appointed to this position on 18 November 2020. Ms Linda Ward acted in these roles from 28 January 2020 until Dr Helgeby's permanent appointment was approved by the Presiding Officers.

### ***Department of Parliamentary Services***

The Secretary of the Department of Parliamentary Services is Mr Rob Stefanic.

Dr Dianne Heriot holds the office of Parliamentary Librarian.

## INFORMATION AND COMMUNICATIONS TECHNOLOGY

The Parliamentary Information and Communication Technology Advisory Board (PICTAB) is an advisory body established in 2012. Its role is to provide guidance on the delivery of the Australian Parliament Digital Strategy 2019–2022. PICTAB membership includes parliamentarians and representatives from the parliamentary departments and the Commissioner.

PICTAB continues to function as an effective advisory group on ICT strategy and risk, along with advice on a number of programs.

PICTAB met three times in 2020–21. The Parliamentary Service Merit Protection Commissioner, as the Commissioner’s representative, attended all PICTAB meetings during 2020–21.

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

The Presiding Officers and Secretaries are informed of major initiatives taken by the Australian Public Service Commissioner in relation to employment in the APS.

The Parliamentary Service Commissioner’s annual meeting with the Parliamentary Department Heads, was held in September 2020. Representatives of the parliamentary departments and the Australian Public Service Commission met throughout the year to discuss employment related issues.

## STAFFING AND FINANCIAL MATTERS

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

Employees supporting the Parliamentary Service Commissioner are employees of the Australian Public Service Commission and are employed under the *Public Service Act 1999* and are accountable to the Parliamentary Service Commissioner.

The Australian Public Service Commission provides all corporate support and services to the Parliamentary Service Commissioner. There was no appropriation for the Parliamentary Service Commissioner in the 2020-21 financial year.

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



# PARLIAMENTARY SERVICE MERIT PROTECTION COMMISSIONER REPORT

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2020–21



Mr Peter Woolcott AO  
Parliamentary Service Commissioner  
GPO Box 3176  
PARKES ACT 2601

Dear Parliamentary Service Commissioner

I am pleased to present the Parliamentary Service Merit Protection Commissioner Report for the reporting period ending 30 June 2021. As required by section 49 of the *Parliamentary Service Act 1999* my report deals with the activities of the Office of the Parliamentary Service Merit Protection Commissioner and has been given to the Parliamentary Service Commissioner.

Yours sincerely

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

Linda Waugh  
Parliamentary Service Merit Protection Commissioner  
10 January 2022

# PARLIAMENTARY SERVICE MERIT PROTECTION COMMISSIONER'S FOREWORD

This year marks the third year of my five-year term. My report outlines to my stakeholders how my office's statutory functions have been performed and how we have helped ensure the Parliamentary Service continues to be a career-based employer that makes fair employment decisions and provides flexible, safe and rewarding workplaces where employees are valued.

Our work and the way we do it continues to evolve, and we are frequently presented with new challenges. One constant has been my staff's commitment to our vision and purpose. I want to recognise how they have adapted to change and thrived during a challenging year. In addition to the COVID-19 pandemic, we saw the departure of senior officers with considerable corporate knowledge and expertise, and we undertook a significant program of work. Throughout the year, my staff members have worked positively and tirelessly, and I thank them for their continued professionalism and commitment. I would also like to thank the Australian Public Service Commission (the Commission) staff members who provided the corporate support that has been so essential for the effective operation of my office.

A foundation of my office is its independence, which is a strong focus of the work we do every day. It is a critical element in giving confidence to Parliamentary Service employees and the Parliamentary Service departments that our work and decisions are fair and impartial. In line with this, and with the support of the Australian Public Service Commissioner, we began a trial of an in-house legal counsel, who advises me and my reviewers on complex cases and general jurisdictional matters. The counsel has been a welcome addition to my office and has contributed to the independent and effective discharge of my statutory functions.

During 2020-21 we received only one application from a Parliamentary Service employee under the Review of actions scheme. This is consistent with the low volume of applications over last two years, where we received one application and no applications respectively.

The Australian Parliament Digital Strategy 2019–2022 is overseen by the Parliamentary Information Communications and Technology Advisory Board (PICTAB). In 2020-2021, I represented the Parliamentary Service Commissioner and attended all board meetings, held on 16 September 2020, 10 March 2021 and 9 June 2021.

The key standout for my office this year has been the completion of important foundational work for delivering a range of initiatives planned for 2021-22, which was additional to the performance of our statutory functions (for both the Australian Public Service and the Parliamentary Service). This behind-the-scenes work focused on providing better information and services to our stakeholders, and included:

- auditing, reviewing and rewriting our entire website content
- developing and piloting information sessions about review entitlements
- developing content for short video explainers, which will provide employees with quick, easy and accessible information on each type of review they are entitled to.

The completion of this foundational work sets up my office for an exciting and productive year ahead. We will deliver on our planned initiatives while continuing to develop resources to assist and support the Parliamentary Service in good decision-making, and provide to Parliamentary Service employees with fair and independent reviews of decisions that affect their employment.

I look forward to the busy and challenging year ahead.



Linda Waugh

Parliamentary Service Merit Protection Commissioner

10 January 2022

## OVERVIEW

### ABOUT THE PARLIAMENTARY SERVICE MERIT PROTECTION COMMISSIONER

The Parliamentary Service Merit Protection Commissioner (Parliamentary Service MPC) is an independent statutory office holder established under Part 6 the *Parliamentary Service Act 1999* (the Act) who performs a range of statutory functions for the Australian Parliamentary Service. The duties and functions of this role mirror those of the Australian Public Service (APS) Merit Protection Commissioner under the *Public Service Act 1999*.

The Parliamentary Service MPC assists Parliamentary Service departments to meet their obligations to provide a fair, flexible, safe and rewarding workplace by providing an independent system of review of employment related actions and decisions. The Parliamentary Service MPC also has a range of other complaint and inquiries functions and can provide recruitment and employment related advice and services.

### ABOUT THE OFFICE OF THE PARLIAMENTARY SERVICE MPC

The staff of the Office of the Parliamentary Service MPC are employees of the Australian Public Service Commission (the Commission). Under section 49(2) of the *Public Service Act 1999*, the staff necessary to assist the Parliamentary Service MPC must be engaged under this Act, and made available by the Australian Public Service Commissioner. In this role the employees are accountable to the Parliamentary Service MPC. The Commission provides all corporate support and services to the Parliamentary Service MPC. There is no appropriation for the Parliamentary Service MPC.

## OUR STATUTORY FUNCTIONS AND RESPONSIBILITIES

The statutory functions of the Parliamentary Service MPC are set out in the Act and by the Parliamentary Service Determination 2013.

### *Review of action scheme*

Parliamentary Service employees are entitled to seek a review of an action or decision that relates to their employment (excluding termination). There are three types of reviews available.

### *Review of a promotion decision (promotion review)*

A decision by a Parliamentary Service Secretary to promote a Parliamentary Service employee (to a classification mentioned in Groups 1-6 in Schedule 1 to the Classification Rules), or to engage an ongoing APS employee as an ongoing Parliamentary Service employee at a higher classification mentioned in any of the Groups 1-6), can be subject of an application for a merit review of the promotion decision.

### *Direct review of a decision or an action (MPC direct review)*

The types of decisions or actions about which the Parliamentary Service MPC can directly review are:

- a. determinations about a breach of the Code of Conduct and resulting sanction decision
- b. an action or decision where it was not appropriate for the Department to conduct an internal review, such as when the Department was involved, the action is very serious or is alleged to be retribution for having previously applied for review of an action
- c. a review of action that was taken by a statutory officer who is managing the employee.

### **Review of an action following an internal review (MPC secondary review)**

A secondary review is when a Parliamentary Service employee is required to seek an internal review by their department before seeking a review from the Parliamentary Service MPC. Disputes about leave applications, performance reviews and flexible working arrangements mostly fall within this category. An employee can also apply for a secondary review if the department refuses to conduct an internal review on the grounds their action was not reviewable.

### **Independent Selection Advisory Committee**

If requested to do so, the Parliamentary Service MPC may assist a Parliamentary Service Secretary with a recruitment process by establishing an Independent Selection Advisory Committee (ISAC). An ISAC can perform a staff selection exercise, and make recommendations about the suitability of candidates for engagement or promotion (for classifications mentioned in any Groups 1–6). Any promotion or engagement decision resulting from an ISAC recommendation are not subject to promotion review under the Review of actions scheme. The Parliamentary Service MPC will usually charge a fee for this service.

### **Inquiry and complaint functions**

Former Parliamentary Service employees can ask the Parliamentary Service MPC to

investigate a complaint about the entitlements received on leaving the service.

The Parliamentary Service MPC may also conduct inquiries into allegations that are:

- public interest disclosures that relate to a breach of the Code of Conduct by employees of the Parliamentary Service
- a breach of the Code of Conduct by the Parliamentary Service Commissioner
- at the request of the Presiding Officer into an action by the Parliamentary Service
- a breach of the Code of Conduct by Parliamentary Service employees.

## **PERFORMANCE AND OUTCOMES FOR THE YEAR**

During 2020–21 we received one application from a Parliamentary Service employee under the Review of actions scheme – this was a primary review application which related to a Code of Conduct breach. This is consistent with previous years where review numbers from the Parliamentary Service have been generally low.

We received no requests to form an ISAC nor any complaints, and did not conduct any inquiries (see Table 1).

**Table 1: Number of activities by statutory function over 5 year period**

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
No. of review of actions applications received—employment related actions (includes Code of Conduct reviews)	6	0	0	1	1
No. of review of promotion and engagement decision applications received	0	0	3	0	0
No. of ISACs formed	0	0	0	0	0
No. of complaints received / Inquiries conducted	1	0	0	0	0

In 2020–21, we focussed on projects to improve the way we work and how we communicate with our stakeholders more effectively through:

***Reach Out Strategy and stakeholder engagement***

Increasing awareness of our role in the public sector is critical to achieving our vision: to support and contribute to safe, productive and harmonious workplaces in the APS and Parliamentary Service.

In 2020-21, we piloted an education program called Reach Out for both Parliamentary Service and APS employees to highlight key information about the review of workplace decisions and promotion decisions. The pilot was very successful and has been developed into a program of webinars and workshops. Registration to attend these sessions will be available on the MPC website at [www.mpc.gov.au](http://www.mpc.gov.au).

The Parliamentary Service MPC attended three meetings of the PICTAB as the representative of the Parliamentary Service Commissioner.

The Parliamentary Service MPC met with the Secretary of the Department of Parliamentary Services on two occasions.

***New website***

For much of the year we were drafting and designing a new, modern website which was launched in September 2021. It will have short, explainer videos and make it easy to register for webinar events. We look forward to reporting on this in next year’s annual report.

***Development of our services to employers***

This year we engaged a business development consultant to assist us in developing a strategy to offer employer services to APS and non-APS Commonwealth entities and to state and territory agencies and departments. The key objectives of the engagement were to undertake competitor analysis, develop a pricing model and develop a marketing strategy, and identify

the governance and internal controls needed to ensure work quality. The final report met all the objectives and identified five core services that would complement our current capability. Operationalising the strategy has been incorporated in our business plan and the work associated with that will roll into 2021–22.

**THE YEAR AHEAD**

A key priority for 2021-22 will be the implementation of a communications strategy and continuing to improve the way we provide our service.

***Engaging with and supporting our stakeholders***

- Maintain the momentum of our engagement with our stakeholders through our website, webinars, videos, and information sessions to raise awareness of review entitlements.
- Build on our suite of resources to support agencies, managers and human resources (HR) practitioners to make good employment-related decisions that are timely, fair and embedded in administrative decision-making principles.
- Launch the new Parliamentary Service MPC website with refreshed content and improved navigation for our key stakeholders.
- Simplify our online application forms and improve the way employees make an application to the Parliamentary Service MPC.

***Delivering new services and resources***

- Promote the Parliamentary Service MPC business model, offering expert and high-quality employment-related services to APS and non-APS Commonwealth entities and to state and territory agencies and departments.

- Provide free webinar sessions for all APS and Parliamentary Service employees about their review entitlements, how the Review of actions scheme operates and what the role of their department and the Parliamentary Service MPC are within that scheme.
- Publish video explainers on our website explaining how promotion review and review of workplace decisions operate.
- Publish new tip sheets, case studies and good practice guides for agency decision makers and applicants.
- Promote our Independent Selection Advisory Committee capabilities to assist agencies and departments to conduct high-quality recruitment processes.
- Assess the outcome of the pilot to engage a MPC legal counsel.
- Complete and report on the pilot of a two-stage Promotion Review Committee application process and assess the benefits to inform potential changes in the future.

### ***Improving the way we work***

- Maintain staff engagement in professional development through a program of speakers and presentations.
- Monitor the analytics of our new website for functionality, accessibility and usefulness, and use that information to continue to enhance the site.
- Survey stakeholder groups to measure awareness of review entitlements and the role of the Parliamentary Service MPC in the APS, and use these results to target our communications and develop new resources.
- Contribute to any legislative reforms that will impact or improve how we do our work.
- Support the Commission's investment in a new fit-for-purpose case management system and design workflows to improve reporting capability and drive efficiencies.
- Continue to receive and use feedback from applicants and agencies to inform our work and continuously improve.

## APPENDIX A: THE PARLIAMENTARY SERVICE MERIT PROTECTION COMMISSIONER'S STATUTORY FUNCTIONS

Function of the Parliamentary Service MPC	Statutory authority—Parliamentary Service
<p>Review of actions scheme— promotion and engagement</p> <p>(includes review of promotion and engagement decisions of certain Parliamentary Service employees)</p>	<p><i>Parliamentary Service Act 1999</i></p> <p>Section 33, Sections 48(1)(d) and 48(1)(4)</p> <p>Parliamentary Service Determination Part 9</p> <p>Division 1 Clauses 71, 72, 73 and 76</p> <p>Division 2 Clauses 77–93</p>
<p>Review of actions scheme—other employment related actions (workplace decisions)</p> <p>(includes Code of Conduct, primary reviews of other matters and secondary reviews)</p>	<p><i>Parliamentary Service Act 1999</i></p> <p>Section 33 and Section 48(1)(d)</p> <p>Parliamentary Service Determination Part 9</p> <p>Division 1 Clauses 71–72, 74–75</p> <p>Division 3 Clauses 94–108</p> <p>Schedule 3 lists actions that are not reviewable</p>
<p>Review of a department's determination that a former employee breached the Code of Conduct for behaviour engaged in while an employee</p>	<p><i>Parliamentary Service Act 1999</i></p> <p>Section 33 and Sections 48(1)(e)</p> <p>Parliamentary Service Determination Part 11</p> <p>Division 3 Clauses 115</p> <p>Division 4 Clauses 116–123 (review procedures)</p>
<p>Review of the actions of a statutory office holder who is not a department head that relate to an employee's Parliamentary Service employment</p>	<p><i>Parliamentary Service Act 1999</i></p> <p>Sections 33 and 48(1)(e)</p> <p>Parliamentary Service Determination Part 11</p> <p>Division 1, Clause 113</p> <p>Division 5, Clause 124(1)–(6)</p>

<b>Function of the Parliamentary Service MPC</b>	<b>Statutory authority—Parliamentary Service</b>
Inquiry into a public interest disclosure alleging a breach of the Code of Conduct	<i>Parliamentary Service Act 1999</i> Sections 48(1)(a) and 48(2) Parliamentary Service Determination Part 11 Division 1, Clause 113
Inquiry into an alleged breach of the Code of Conduct by the Parliamentary Service Commissioner	<i>Parliamentary Service Act 1999</i> Section 48(1)(b)
Inquiry into a Parliamentary Service action at the request of the Presiding Officers of the Australian Parliament	<i>Parliamentary Service Act 1999</i> Sections 48(1)(c), and 48(2) 48(4)
Inquiry into whether a current or former Parliamentary Service employee has breached the Code of Conduct	<i>Parliamentary Service Act 1999</i> Sections 48(1)(ca) and Section 48A Parliamentary Service Determination Part 11 Division 2, Clause 114
Investigate a complaint from a former employee about entitlements	<i>Parliamentary Service Act 1999</i> Subsection 48(1)(e) Parliamentary Service Determination Part 11 Division 1, Clause 113(2) and Clause 115
Independent Selection Advisory Committee (ISAC)	Parliamentary Service Determination Part 8 Clauses 59 to 70



