



# HUMAN RESOURCE MANAGEMENT POLICY

**SUBJECT**

**Recruitment, Selections and Engagement of Employees**

**SUMMARY OF POLICY**

This policy provides guidance to managers on recruiting and selecting employees under the Public Service Act 1999.

**POLICY NO.**

**DATE OF ISSUE**

**DATE OF EFFECT**

April 2014

**EMPLOYEES AFFECTED**

As outlined in policy.

**CONTACT OFFICER(S)**

Any member of the Human Resources Section

**LAST HUMAN RESOURCES  
POLICY ISSUED (DATE)**

N/A

**SUPERSEDES POLICY NO.**

N/A



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## 1 Purpose

This policy provides guidance to managers on advertising positions and selecting employees.

## 2 Principles

- All position advertisements and accompanying selection documentation must reflect the Court's core competencies.
- Promotion decisions, the engagement of ongoing employees and the engagement of non-ongoing employees are based on merit.
- Selection documentation should be kept to the minimum needed to support selection decisions.

## 3 Delegations

Letters of Engagement must include a Notice of Engagement signed by the Delegate to avoid any ambiguity about the delegated power the employee may exercise. (Attachment C of the Engagement letter).

## The Selection Process

### 4 Reviewing vacancies and selection documentation

Vacant positions should be reviewed prior to recruitment action taking into account factors such as changes in workload, changes in the nature of the work and the availability of funds.

Position documentation should be reviewed when a decision is taken to advertise any position. It should include:

- A job description
- Selection criteria
- Any other special requirements including formal qualifications

Job descriptions and selection criteria must reflect the Court's core competencies in addition to the specific requirements of the role. These are:

- Courtesy and Client Service
- Innovation and Continuous Improvement
- Excellence in Professional Practice and Procedures
- Working Relationships and Leadership
- APS Values and Relevant Workplace Policies.

The competencies should be developed into selection criteria that reflect the specific requirements of the jobs.



## 5 Options for filling vacancies

Depending on the circumstances, some of the options available to delegates when filling positions will include:

- a. Advertising for merit selection
- b. Permanent re-assignment of duties (transfer and promotion)
- c. Temporary reassignment of duties (temporary transfer and HDA)
- d. Using existing orders of merit
- e. Non-ongoing and intermittent or irregular employment
- f. Engaging intermittent employees
- g. Making non-ongoing/intermittent vacancies available to the community

### a. Advertising for merit selection

Decisions to engage new employees and promote existing ongoing employees must be based on merit, following a competitive selection process.

Job descriptions and selection criteria must be prepared in accordance with the standard template and reviewed by Human Resources before any advertisements appear. Human Resources will assist in drafting any position-related documentation. All registries are required to use the standard template for position descriptions which is available on the Court's intranet site.

Positions must be advertised in the Commonwealth Gazette and may also be advertised in the local or national press at the discretion of the delegate. Gazette advertisements are open to all Australian citizens, not just APS employees. However, delegates may decide to restrict the field to the APS on the grounds of cost and operational efficiency.

Agencies can now notify conditions on any of the following matters when advertising a position or engaging an employee. Court policy is summarised as follows:

- Probation – arrangements are as per Clause 80 of the Enterprise Agreement 2011-2014
- Citizenship – Australian citizenship requirement continues unless determined otherwise by Registrar (section 22 (8)).
- Summary of Conditions of Employment (Attachment B of Engagement letter)
- Formal qualifications – may be prescribed by the delegate when advertising the position
- Security and character clearances – all staff must undergo an Australian Federal Police Records check. This form is available on the Court's intranet site



- Health clearances – are required for the engagement of all ongoing employees and may also be required in other circumstances.
- Fair Work Statement – all staff must be given this statement. This statement is available on the Court’s intranet site.

For consistency purposes the relevant attachments have been included in the Letters of Engagement/Contract Templates which are available on the Court’s intranet site.

b. Permanent re-assignment of duties (transfer and promotion)

Delegates can assign, and re-assign, the duties of employees on a permanent and temporary basis under section 25 of the PS Act. Re-assignments may be for all or part of the duties of another position.

Delegates should formalise all permanent re-assignments at level, including rotations, firstly by issuing a written direction and secondly by agreeing on a new job description. The attached direction also has the effect of nominating the employee to occupy the position under section 77 of the Act, in the event that they are required to exercise delegations.

It is good practice, although not a statutory requirement, to review job descriptions and selection criteria when duties are reassigned at level. All new job descriptions should be forwarded to Human Resources on completion.

Promotions, may only follow a merit selection exercise and must be notified in the Commonwealth Gazette.

c. Temporary re-assignment (temporary transfer and higher duties)

Temporary reassignment of duties at level is normally handled informally, without the need for a written direction. One exception is where the position in question holds a delegation, in which case a written direction should be issued.

Temporary reassignment of duties to a higher level involving higher duties must be by written direction (email included) and must take account of:

- The provisions of Clause 87 of the Federal Court of Australia Enterprise Agreement 2011-2014 (or any equivalent provisions in subsequent agreements)
  - Public Service Commissioner’s Direction 4.7 which states that the following factors must be considered:
    - The efficiency of the employee
    - The relative importance of the duties of the position to the Court
    - The duration
    - The expected costs
    - The need for APS employees to gain experience



A letter of temporary re-assignment is available on the Court's intranet site

d. Using existing orders of merit

Existing orders of merit for the same, or identical, positions may be used for 12 months after the original Gazette advertisement.

e. Engaging non-ongoing (temporary) employees

May be engaged for:

- A specified term
- The duration of a specified task
- Duties that are irregular or intermittent

The main categories of Court staff covered by these provisions are Judges' Associates, who would typically be 'specified term' employees, and Casual Court Officers who are 'irregular or intermittent' employees.

- *Specified term employees*

Specified term employees may be engaged for an initial term not exceeding 18 months which may be extended to 3 years in prescribed circumstances (PS Regulation 7 provides more detail). Note: there is no provisions by which specified term employees may automatically become ongoing employees.

Positions must be advertised in the Gazette, and selection take place on the basis of merit, if employment exceeds or is extended beyond 12 months.

- *Specified Task employees*

Non-ongoing employees may be engaged for specified tasks on the following conditions:

- No specific time limits apply provided the duration of the task can be reasonably estimated at the time of engagement.
- An opportunity should be provided for ongoing employees of the Court to apply and be considered.
- It is considered that the services of the person will not be required after the completion of the task.

Positions must be advertised in the Gazette, and selection take place on the basis of merit, if employment exceeds or is extended beyond 12 months.

A Letter of Engagement including summary of conditions of employment for all non-ongoing employees is available on the Court's intranet site.

f. Engaging intermittent/irregular (casual) employees

Non-ongoing irregular or intermittent employees may be engaged for tasks where there is no consistent or predictable pattern of work, eg, Casual Court Officers. There is no longer a requirement that these employees be engaged



for specified periods of less than 12 months. As a result, Registries now have two options:

- A roster of employees may be established and used on an indefinite basis. In this case, it is important that offers of employment make it clear that the employee may decline work and that the Court is under no obligation to provide it.
- Alternatively, depending on local practices, Registries may engage Casual Court Officers for a specified term (eg, of up to 12 months) to provide employees with a degree of certainty while avoiding creating an expectation of continuing employment.

Termination of the contract prior to its cessation – for reasons other than lack of suitable work – should therefore be in accordance with practices for other non-ongoing employees. Registries must ensure that non-ongoing employees are aware of termination arrangements. Information on the termination of non-ongoing employees is available on the Court’s intranet site or by contacting Human Resources.

Irregular and intermittent employees who are already ongoing employees (under previous APS legislation) are subject to the arrangements applying to ongoing employees, rather than these arrangements.

A Letter of Engagement including summary of conditions of employment for intermittent employees is available on the Court’s intranet site.

g. Making non-ongoing and irregular/intermittent vacancies available to the community

The Court will place a notice on its Internet site advising members of the public that they can be considered for non-ongoing and irregular/intermittent vacancies that may arise.

Prospective applicants will be given the opportunity to be considered for specific roles (eg, Casual Court Officer and Judge’s Associate). They will also have the opportunity to lodge their resume to be considered for other non-ongoing and irregular/intermittent roles that may arise.

## **6 Selecting Applicants on Merit**

Decisions to promote existing and engage ongoing new APS employees must be based on merit. Similarly decisions to engage or extend the employment of non-ongoing employees beyond 12 months must also be based on merit. The Public Service Act (section 10 (2)) provides that decisions to promote and engage are based on merit if they meet the following requirements:

- An assessment is made of the relative suitability of the candidates, using a competitive selection process (including advertising the position in the Commonwealth Gazette).



- The assessment is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required for the duties.
- The assessment focuses on the relative capacity of the candidates to achieve the outcomes related to the duties.
- The assessment is the primary consideration in making the decision.

It is Court policy to use selection panels unless this would be clearly inappropriate (eg, there is a single suitable applicant). In cases where some other selection process is proposed, at the outset, for example, the delegate wants to make a decision based on written applications alone, the approval of the Registrar must first be sought.

Committees/delegates may base their recommendations/decisions on the following sources of information:

- Written applications
- Referee reports
- Interview
- Other assessment methods such as work simulations, assessment centres, skills tests, peer assessment, technical tests and aptitude tests. The conduct of these tests is subject to privacy legislation and principles.
- Any combination of the above

It is Court policy to interview all competitive applicants, that is, applicants who based on their written application, may be the best person for the job. Applicants who are not competitive may be short-listed out prior to interview. Second interviews may be used where necessary.

Applicants should have access to the same information and documentation and be kept informed about the status of their application, particularly where there are delays.

#### *a. Who can be considered?*

Only applicants for a position can be considered for promotion or engagement as an ongoing employee. Applications must be in writing - an expression of interest is not an application.

People who have accepted voluntary retrenchment from the APS and other Commonwealth employment cannot be considered as an applicant for the period which their redundancy benefit as calculated. This principle extends to non-ongoing employment. There are exceptions to this rule in some circumstances – cases of this type must be referred to HR Section.

While Australian citizenship is a requirement for ongoing employment, the Registrar can waive this in appropriate circumstances, eg, a person has unique skills or experience.



### *b. Selection committees and consultants*

The role of the selection committee is to make a recommendation to the delegate. Recruitment consultants can also be used for this purpose. There are no specific requirements relating to the composition of committees but they should reflect a range of diverse experience, background and opinion, in order to ensure a balanced assessment is made of applicants. Delegates may also be committee members but should consider whether this may raise issues of real or perceived bias.

Delegates can provide instructions on how they wish the selection to be conducted or can leave this to the committee/consultant. Delegates may seek clarification from committees/consultants or ask them to review recommendations but must not improperly influence the committee, eg, instructing the committee to make a particular finding or recommendation.

Delegates are not bound to follow recommendations but must document the reasons for their decisions where these differ from the recommendation.

### *c. Procedural Fairness*

Decisions and assessment processes should be demonstrably fair, reasonable and transparent. For example, applicants should have the opportunity to comment on adverse referee comments obtained by the committee before any recommendation is made.

Assessments and ratings of applicants should be sustainable and standards should be applied consistently. Numerical ratings and other ratings such as 'good' or 'satisfactory' should have an underlying rationale that can be explained to applicants.

### *d. Workplace Diversity Considerations*

Delegates and committees should use their discretion to ensure all applicants have equality of opportunity in applying for vacancies. In some cases, special arrangements may be necessary to ensure this takes place. For example, selection processes may need to take into account cultural differences and reasonable adjustment principles.

### *e. Promotion appeals/reviews*

The Public Service Act and Regulations contain promotion review arrangements, the details of which can be obtained from the Court's Human Resources Section or the local office of the Australian Public Service Commission.

## **7 Documenting recommendations and decisions**

While there is no prescribed format for documenting selection decisions a form reflecting good practice is available on the intranet or from the Human Resources section. However, at a minimum, documentation should include:



- Details of advertising arrangements
- Job descriptions, selection criteria and other position documentation
- A description of the selection process used
- An explanation of the decision/recommendation (eg, comparative comments on competitive applicants)
- The delegate's signature, the date and the power being exercised (eg, reassign duties, engage an employee, etc)
- Reasons for numerical ratings and other ratings such as 'good' and 'satisfactory' where used.
- The completion of Recruitment Statistics Sheet.

Selection reports and reasons for the decision should be couched in terms of the selection criteria. There is no requirement for individual assessments but delegates/committees must be able to provide reasons if required for appeals or post-selection feedback.

## **8 Acting on the outcome of selections**

Delegates are responsible for ensuring selection decisions are appropriately followed up:

- The selection report should be approved, signed and sent to Human Resources Section in Principal Registry.
- The successful applicant should be advised and an offer of employment or notice of direction should be prepared.
- Applicants should be notified of the outcome and offered feedback.
- Mandatory medical and security checks should be organised. Medical examinations should be organised with Medibank Health Solutions for all engagements of ongoing employees. Completed medical and security assessments should be sent to Human Resources for placement on the employee's personal file.
- Induction should be organised as soon as practicable

## **9 Selection feedback and releasing selection documentation**

Providing quality selection feedback helps avoid promotion appeals and grievances. Feedback should be offered to all applicants and should take place as soon as practicable after the selection decision is announced. Delegates/committees may also provide applicants with the following documentation on request:

- Any material which directly concerns their own application (eg, individual assessment, written referee comments).
- A statement confirming that the successful applicant had been selected for the position (including the successful applicant's name).



- A copy of parts of the comparative assessment that relate solely to the person seeking feedback. This should not include material on other candidates.

## **10 Code of Conduct**

A copy of the APS Values and Code of Conduct must be provided to all new employees and is listed as Attachment D in all Letters of Engagement.

## **11 Confidentiality Agreement**

All new employees are required to read and sign the Court's Confidentiality Agreement. The Agreement must be signed in the presence of a witness and returned to Human Resources where it will be placed on the employee's file. A copy of the Confidentiality Agreement is available on the Court's intranet site.

The Confidentiality Agreement is listed as Attachment E in all Letters of Engagement.

## **12 Probation**

Probation arrangements apply for all new APS employees. Current probation arrangements are contained in Clause 80 of the Court's Enterprise Agreement 2011-2014. This provides for a probationary period of six months. Probation forms for ongoing & non-ongoing staff are available on the Intranet site.

## **13 Information Technology**

All employees must be provided with a copy of the Court's Information Technology policy which is available on the Court's intranet site.

## **14 Forms**

Forms and Statements referred to in this document are available on the Court's Intranet site under Human Resources – Recruitment and Selection and may be adapted as appropriate to suit local circumstances.

## **15. Attachments/Templates**

Attachments and Templates referred to in this document are available on the Court's Intranet site under Human Resources – Recruitment and Selection and may be adapted as appropriate to suit local circumstances.