

Recruitment, Selection and Appointment to Fixed Term Vacancies

Commissioner's Instruction 49

Statement of intent

To set how public sector bodies recruit, select and appoint to fixed term vacancies.

Scope and application

This instruction applies to public sector employing authorities as defined in section 3 of the *Public Sector Management Act 1994* (PSM Act) other than when appointing chief executive officers, chief employees and ministerial officers and is to be read in conjunction with the principles set out in Part 2 of the PSM Act, applicable legislation and industrial instruments.

The Public Sector Recruitment Standard as contained in this instruction establishes the minimum standards of merit, equity and probity to be met when public sector bodies recruit, select and appoint to fixed term vacancies.

References

- [Public Sector Management Act 1994](#)
- [Privacy and Responsible Information Sharing Act 2024](#)
- [Public Sector Management \(General\) Regulations 1994](#)
- [Public Sector Management \(Redeployment and Redundancy\) Regulations 2014](#)
- [Public Sector Management \(Breaches of Public Sector Standards\) Regulations 2005](#)
- [Public sector awards and agreements](#)
- [Breach of standard claims](#)
- [Commissioner's Instruction 5: Publishing a Public Sector Notice](#)
- [Commissioner's Instruction 12: Redeployment and Redundancy](#)
- [Commissioner's Instruction 33: Determining Remuneration of Specialist Positions](#)
- [Commissioner's Instruction 40: Ethical Foundations](#)
- [Commissioner's Instruction 48: Recruitment, Selection and Appointment to Permanent Vacancies](#)
- [Commissioner's Instruction 50: Backfilling Temporary Vacancies](#)

Definitions

Acting: Direction or agreement with an employee to temporarily perform the functions and duties of another office, post or position in a public sector body which is vacant, whether temporarily or permanently, and which does not alter the employee's underlying employment status.

Advertising: Invitation included in a public sector notice for people to apply for a vacancy.

Applicant: Person being considered to fill a vacancy.

Applicant initiated approach: Approach to a public sector body from a person seeking employment opportunities.

Assessment: Process of considering an applicant's suitability for a vacancy.

Entry level: Position at the base grade under the relevant industrial instrument, apprenticeship, cadetship or traineeship.

Fixed term: Appointment for a specific term up to 5 years.

Fixed term vacancy: Vacancy that is for a finite period and does not have a substantive occupant.

Government jobs platform: [JobsWA](#).

Limited search: Recruitment directed towards identifying applicants and involves one or more of the following methods: applicant initiated approach, referral, use of a recruitment consultant and targeted advertising.

Recruitment: Act of searching for and identifying applicants.

Recruitment consultant: Company/organisation that undertakes applicant search engaged under a contract for service through a [Common Use Arrangement](#).

Recruitment pool: Collection of suitable applicants maintained by a public sector body to fill future vacancies and operates:

- in an individual agency or is shared between multiple agencies and
- for an ongoing period or a period that is specified.

Referral: Act of providing the details of an applicant or applicants following a request from a public sector body hiring manager.

Similar position: Position at the same classification level, comparable suitability requirements and subject to the same industrial instruments.

Successful applicant: Suitable applicant to be offered an appointment to the vacancy.

Suitable applicant: Applicant assessed as meeting the suitability requirements.

Suitability requirements: Skills, experience and attributes necessary to competently discharge the duties of the office, post or position against identified criteria in the following areas:

- Eligibility: Qualifications, professional licence, right to work (citizenship, residency, relevant visa)
- Pre-employment conditions: Integrity screening, police check, working with children check as required
- Job requirements: Functions and tasks to be performed
- Personal attributes: [Behaviour](#) and [ethical](#) attributes now and in the future

- Organisational requirements: Diversity and other outcomes determined by the public sector body.

Surplus employees: Registrable and registered employees as defined in the PSM Act.

Targeted advertising: Advertising to a limited group of people where one or more of the reasons or circumstances in clauses 8 or 9 (below) are met.

Vacancy: Vacant office, post or position, whether on a temporary or permanent basis.

Instruction

1. Public sector bodies must:
 - a. establish procedures that:
 - i. are consistent with the Public Sector Recruitment Standard
 - ii. encourage efficient decisions and outcomes in accordance with section 8(1) of the PSM Act
 - iii. prioritise permanent employment ensuring stability
 - b. actively manage suitable applicants in recruitment pools.
2. Public sector bodies must fill fixed term vacancies in the following priority by appointing their:
 - a. suitable surplus employees as prescribed under the Redeployment and Redundancy Regulations 2014
 - b. suitable applicants in recruitment pools.
3. Appointment of a surplus employee to a fixed term vacancy must not change their underlying permanent employment status.
4. Public sector bodies must, if unable to fill fixed term vacancies under clause 2, action as per clause 5 (unless they elect to action as per clauses 8 or 9 because one of the reasons or circumstances apply).
5. Public sector bodies must:
 - a. advertise and fill fixed term vacancies as soon as practicable
 - b. make fixed term vacancies available and accessible on the government jobs platform as a minimum.
6. Public sector bodies can temporarily fill fixed term vacancies through fixed term contract, acting and secondment arrangements under [Commissioner's Instruction 50: Backfilling Temporary Vacancies](#) while in the process of filling fixed term vacancies.
7. Public sector bodies must, when advertising or using limited search, state the possibility of permanency in the future, except where filling a specialist position under [Commissioner's Instruction 33](#).
8. When one of the following reasons exists, public sector bodies can use limited search to identify, assess and appoint a person:
 - a. for up to 12 months initially and any number of subsequent appointments in the same fixed term position not exceeding appointment of a combined total of 24 months
 - b. in other circumstances, greater than 12 months that meet one of the following:

- i. The vacant position is deemed a specialist position under [Commissioner's Instruction 33](#).
 - ii. Advertising in the previous 12 months for the same vacancy failed to identify a suitable person.
 - iii. The vacancy is created to give effect to a decision made by government to in-source operations to the public sector.
 - iv. The vacancy is in a region listed in Schedule 1 of the *Regional Development Commissions Act 1993* (except Peel).
 - v. The vacancy is at an entry level.
 - vi. The vacancy requires a genuine occupational qualification consistent with relevant equal opportunity legislation.
9. When one of the following circumstances exists, public sector bodies can use limited search to identify, assess and appoint a person for more than 12 months:
 - a. who meets a measure (public sector body policy and government targets) intended to achieve equality consistent with relevant equal opportunity legislation
 - b. who holds a fixed term appointment at the same classification level as the vacancy
 - c. at the same or a lower classification level as their current substantive position to another vacancy where the combined hours across the appointments does not exceed one full time equivalent
 - d. who has been assessed as suitable through a recruitment process following advertising by any public sector body in the previous 12 months at the same classification level and to the same or a similar position
 - e. who was employed on a fixed term (not in the Senior Executive Service) by a public sector body with a minimum of 12 months continuous service in the previous 24 months and is being appointed to a fixed term vacancy at the same or a lower classification level provided they have a documented record of satisfactory performance and are not restricted from being employed
 - f. who is an external surplus employee undertaking a retraining placement in their public sector body and is appointed at the same classification level for which they are suitable.
10. For reasons and circumstances in clauses 8 and 9, the public sector body must undertake an individual assessment of merit, and an applicant must not be appointed unless they are assessed as meeting the suitability requirements of the vacancy.
11. Public sector bodies must ensure hiring managers:
 - a. identify and describe specific suitability requirements for each vacancy
 - b. assess applicants against the suitability requirements
 - c. undertake inclusive recruitment, assessment and appointment processes
 - d. identify, declare and manage conflicts of interest
 - e. ensure there is no nepotism or bias in decision making
 - f. advise applicants to disclose information relevant to the suitability requirements of the vacancy honestly and accurately
 - g. notify applicants in writing of the employment decision, how to obtain feedback and how to raise concerns
 - h. where applicable, notify applicants of their right to lodge a [breach of standards](#) claim
 - i. document and record all recruitment, selection and appointment decisions.

12. Public sector bodies must:
 - a. provide in writing offers of employment to successful applicants setting out terms and conditions including any probationary period in accordance with relevant industrial instruments
 - b. obtain acceptance of offers of employment from successful applicants and any necessary documentary evidence to meet the relevant suitability requirements
 - c. ensure recruitment, selection and appointment records are accessible and capable of review in line with the [State Records Act 2000](#).
13. The Public Sector Commissioner can exempt public sector bodies from all or some of the requirements of this instruction.

Public Sector Recruitment Standard

When filling vacancies, we comply with the minimum standards of merit, equity and probity and do not recruit, select or appoint based on nepotism or bias.

Merit: Suitable people are appointed.

We:

- set suitability requirements of positions
- screen applicants to ensure they meet the required standards of integrity
- assess applicants against the suitability requirements
- only appoint applicants who meet the suitability requirements.

Equity: Applicants are treated fairly and in accordance with their circumstances.

We:

- use recruitment and assessment processes that enable access for applicants from diverse backgrounds and adjust processes accordingly
- inform applicants of these processes in advance
- give applicants access to information relevant to the vacancies
- inform applicants of outcome decisions, offer them feedback and advise them of avenues for review.

Probity: Processes and decisions are robust and deliver transparent outcomes.

We:

- establish and apply procedures for recruitment
- keep records of decisions in line with the [State Records Act 2000](#) and ensure they are capable of review
- make decisions that are free from bias; and identify, declare and manage conflicts of interest
- consider information relevant to each vacancy when making decisions.