

# Changes to Breach of Standard Claims Procedures from 1 July 2026

In addition to the guidance below, there is information in [Breach of Standard Claims](#).

Following Commissioner's Instructions [48](#), [49](#) and [50](#) effective from 1 July 2026 and rescindment of Commissioner's Instruction 2, [procedures for resolving breach of standard claims](#) mostly remain the same.

Changes from 1 July 2026:

- Recruitment Standard and Transfer Standard replace Employment Standard.
- Recruitment Standard (in Commissioner's Instructions 48, 49 and 50) applies to processes to fill permanent and fixed term vacancies and backfill temporary vacancies. [See also Recruitment Standard: Guidance](#).
- [Transfer Standard](#) applies to processes to transfer employees at the same classification level. It does not apply to employees appointed at the same classification level through a recruitment process
- As there are now 2 standards (recruitment and transfer) that apply when notifying people that they may make breach of standard claims, agencies must state which standard applies.
- Applicants can only make claims under the Recruitment Standard about appointment decisions to vacancies over 12 months. This replaces the previous 6 month threshold.
- Breach of standard claim procedures apply when using any of the new [limited search recruitment methods](#).

## Claims relating to Recruitment Standard

### **More recruitment processes where applicants can make claims**

As agencies have to state the possibility of permanency when filling fixed term vacancies (except specialist and SES positions) and backfilling temporary vacancies over 12 months, there may be more recruitment processes where applicants can make claims. Agencies are required to document all aspects of each recruitment process so each decision is justified.

### **Applicants when agencies use limited search recruitment methods**

To be an applicant under the breach of standard procedures when agencies use limited search recruitment methods, a person must have:

- applied for the vacancy through one or more limited search methods run by the agency
- provided consent to be considered for the vacancy if using an applicant initiated approach, referral or recruitment consultant.

Only applicants who meet requirements for making claims (see Notifying unsuccessful applicants about making claims below) can make claims. The table below sets out who “applicants” are when using limited search recruitment methods:

Applicant initiated approach	Person who expresses interest in employment and gives consent to be assessed by the hiring manager for a vacancy.
Referrals	Person referred by a third party and who gives consent to be assessed by the hiring manager for a vacancy.
Use of a recruitment consultant	Person identified by a recruitment consultant and who gives consent to be assessed by the hiring manager for a vacancy.
Targeted advertising	Person who responds to targeted advertising and is assessed by the hiring manager for a vacancy.

### **Notifying unsuccessful applicants about making claims**

Agencies must notify unsuccessful applicants that they may make claims when they are using limited search to identify applicants and make decisions about:

- appointment to vacancies for over 12 months
- appointment to vacancies for 12 months or less if advertised with possibility of extension over 12 months or permanency
- acting appointment to temporary vacancies advertised with possibility of permanency or
- selection for recruitment pools.

These applicants can make claims when unsuccessful in being appointed or selected for recruitment pools.

Applicants can also make claims if they unsuccessfully applied for acting appointments to temporary vacancies for 12 months or more, or 12 months or less if advertised with possibility of extension over 12 months or permanency.

The table at the end of this document provides more information.

### **Claims delaying appointments when using limited search**

The usual rules apply for claims delaying appointments when using limited search. See [‘Activities delayed by a claim’](#).

### **Notifying applicants that they can make claims if found suitable in previous advertising or limited search, and being considered for other vacancies**

Agencies must notify applicants that they can make claims with them if they:

- were found suitable in a previous process
- consented to being considered for the same or a similar vacancy
- were unsuccessful for the current vacancy and
- meet other requirements to be eligible to make claims (see ‘Notifying unsuccessful applicants about making claims’ below).

## **Notifying applicants that they can make claims when agencies find successful applicants and decide to close recruitment processes early**

If agencies close recruitment processes early because they have decided to appoint suitable applicants, they must advise unsuccessful applicants who are eligible to make claims (see 'Notifying unsuccessful applicants about making claims' below) that they can make claims.

## Claims relating to Transfer Standard

The new Transfer Standard is effective from 1 July 2026.

The [breach of standard procedures](#) apply to claims relating to the Transfer Standard.

Employees can make claims relating to the Transfer Standard where they:

- are being transferred to another public sector position at the same classification level as their current public sector position
- unsuccessfully applied for transfer to a public sector position at the same classification level as their current position in response to an invitation to apply for transfer (not including recruitment, selection and appointment processes using limited search which are subject to the Recruitment Standard).

**Breach of Standard Claims Procedures: Recruitment, selection and appointment and transfer**

Type of vacancy and appointment	Notifiable employment decision?	Who can make a breach of standard claim?	Is appointment or transfer stayed by claim?	Which standard applies?
<b>Permanent vacancies</b> (positions with no substantive occupant)				
<b>Substantive permanent appointment</b>	Yes	Unsuccessful applicants	Yes	<b>Recruitment Standard</b>
<b>Acting in permanent vacancy</b>	No	N/A – No breach rights for <b>acting in vacancy</b>	NA	
<b>Secondment to permanent vacancy</b>	Yes if over 12 months or up to 12 months with possibility of extension over 12 months or permanency ( <b>minimum period</b> )	Unsuccessful applicants if term of appointment meets minimum period	Yes	
<b>Fixed term contract to permanent vacancy</b>	Yes if meets minimum period	Unsuccessful applicants if term of appointment meets minimum period	Yes	

Type of vacancy and appointment	Notifiable employment decision?	Who may make a breach of standard claim?	Is appointment or transfer stayed by claim?	Which standard applies?
<b>Fixed term vacancies</b> (positions with no substantive occupant)				
<b>Fixed term appointment</b>	Yes if meets minimum period. Most fixed term vacancies meet minimum period as Commissioner's Instructions 49 require most to state possibility of permanency (except specialist and SES positions)	Unsuccessful applicants if term of appointment meets minimum period	Yes	<b>Recruitment Standard</b>
<b>Acting in fixed term vacancy</b>	No, outside of definition	N/A – No breach rights for <b>acting in vacancy</b>	N/A	
<b>Secondment in fixed term vacancy</b>	Yes if meets minimum period	Unsuccessful applicants if term of appointment meets minimum period	Yes	
<b>Fixed term contract in fixed term vacancy</b>	Yes if meets minimum period	Unsuccessful applicants if term of appointment meets minimum period	Yes	
<b>Recruitment pools</b>				
<b>Decisions to include applicant in recruitment pool</b>	Yes	Unsuccessful applicants	Yes at least one vacancy of the type the claim relates to must be held open until the claim is finalised	<b>Recruitment Standard</b>

Type of vacancy and appointment	Notifiable employment decision?	Who may make a breach of standard claim?	Is appointment or transfer stayed by claim?	Which standard applies?
<b>Backfilling temporary vacancies</b> (only positions with a substantive occupant)				
<b>Acting in temporary vacancy:</b> Temporary movement from one position to another with same/higher classification level in same agency	Yes if advertised with possibility of permanency  Note: Commissioner's Instruction 50 requires all backfills over 12 months to state possibility of permanency	Unsuccessful applicants if term of appointment advertised with possibility of permanency	Yes	<b>Recruitment Standard</b>
<b>Secondment in temporary vacancy</b>	No – outside of definition	N/A – No breach rights for <b>secondment in temporary vacancy</b> (only for <b>acting</b> )	No – no breach rights	
<b>Fixed term contract in temporary vacancy</b>	No – outside of definition	N/A – No breach rights for <b>fixed term contract in temporary vacancy</b> (only for <b>acting</b> )	No – no breach rights	

Type of vacancy and appointment	Notifiable employment decision?	Who may make a breach of standard claim?	Is appointment or transfer stayed by claim?	Which standard applies?
<b>Transfer</b>				
<b>Unsuccessful application for transfer at same classification level in response to a process of transfer</b>  (Does not include recruitment, selection and appointment processes using limited search which are subject to Recruitment Standard)	No – outside of definition	Unsuccessful applicants in response to process of transfer (invitation to apply for transfer to positions at same classification level)	Yes	<b>Transfer Standard</b>
<b>Being transferred at same classification level</b>	No – outside of definition	Employees being transferred	Yes	