



Australian Government
Australian Public Service Commission

Guide on merit in the Australian Public Service



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Disclaimer

This guidance has been developed to support APS agencies understanding the Australian Public Service merit principle. The Australian Public Service Commission has endeavoured to ensure the accuracy of the material at the time of publication and will update the document periodically. This information has been developed as general guidance and is not legal advice.

Overview

Purpose

The Australian Public Service is a career-based service that makes fair and transparent employment decisions to drive a high-performance culture and to build a diverse workforce that reflects the community it serves.

Merit-based recruitment decisions are foundational to an effective and ethical workplace. They are crucial to ensuring the APS workforce has the right skills and capabilities to perform to a high standard and meet the expectations of Government and the community. This guide is designed to help APS agencies understand the principle of merit, which serves as the foundation for undertaking an effective recruitment process that can withstand scrutiny. It focuses on explaining the principle of merit in a straightforward way, with the aim of supporting agencies to uphold merit while also building innovative, responsive and flexible recruitment processes that meet individual agency needs.

While this guide has been prepared for HR practitioners, it will also be useful for hiring managers, selection panel members, and others involved in APS recruitment. It covers the key requirements of merit-based selection, why they are important and how agencies can achieve each requirement.

What is merit?

Merit is a fundamental principle underpinning APS engagement and promotion decisions. The merit principle requires the APS to make recruitment and selection decisions based on a candidate's skills and abilities, assessed through a competitive process and conducted with integrity.

The purpose of merit is to ensure the candidate(s) with the most suitable skills and experience for the role is selected. However, merit doesn't need to result in a process that is complicated or time-consuming. Merit-based recruitment processes can be flexible and tailored to the specific role and agency requirements, provided it aligns with the APS Values and Employment Principles, which are set out in sections 10 and 10A of the [Public Service Act 1999](#) (PS Act). Ultimately, merit strengthens workforce capability and team effectiveness by attracting and selecting the most suitable candidate or candidates.

Merit aims to provide equal access to opportunities by ensuring that everyone is assessed against the same criteria regardless of background, identity or personal connections. While merit aims to support fairness in recruitment, it may fall short in achieving fairness in outcomes where unconscious bias and structural inequities are not acknowledged and appropriately managed.

Why is merit important?

“Application of the merit principle is essential for the preservation of an impartial APS in which staffing decisions are not influenced by nepotism or patronage. It is also central to the aim of enhancing the efficiency of the APS by selecting the best people for employment and advancement.”¹

Merit supports fair, transparent employment decisions based on a candidate’s work-related qualities. It also helps build a workforce that meets community expectations and helps build and maintain public trust. Merit also promotes an equal opportunity for all candidates, considering diversity and building an APS workforce that is reflective of the community it serves. Merit-based recruitment processes minimise the potential for cronyism, patronage and nepotism which is essential to maintaining public trust.

Building a diverse workforce

The public service is legislatively² bound to foster a workforce that reflects the diversity of the Australian community. The public service acknowledges that engagement of people with diverse backgrounds, abilities and perspectives, supports the APS to design and deliver better policy and service delivery for all Australians. This includes setting the standard as a model employer by building an APS which represents the Australian population including people of all ages, genders, cultural backgrounds, disabilities, First Nations peoples, LGBTIQ+ people, and people who consider themselves to be neurodivergent.

The need to foster a diverse workforce is in alignment with the merit principle. Hiring practices that appropriately account for diversity and inclusion enable the APS to unlock diverse talent pools, which can lead to greater innovation, productivity, effectiveness and integrity. The application of diversity and inclusion ensures that when undertaking merit-based selection processes, agencies critically evaluate what work-related qualities are genuinely required to perform the role. This means challenging and re-assessing the role based on genuine requirements, rather than how the role has always been filled.

The APS also undertakes specific measures to address the under-representation of diversity groups, including Aboriginal and/or Torres Strait Islander peoples and people with disability. Diversity recruitment initiatives aimed at engaging and promoting employees of diverse backgrounds are undertaken in accordance with a merit-based selection process. Candidates are assessed based on their work-related qualities, which may also include broader skills, styles and characteristics such as emotional intelligence, cross-cultural awareness, and cultural intelligence.

There are a number of strategies and initiatives in place that support building a diverse and inclusive workforce. Please see the [Diversity and inclusion strategies webpage](#) for further information.

¹ The McLeod report 1994

² The Public Service Act 1999, section 10A(1)(g)

Defining merit – APS Legislative Framework

The merit Principle and the elements of merit are set out in the APS Legislative Framework.

Subsection 10A(2) of the PS Act states:

For the purposes of paragraph (1)(c), a decision relating to engagement or promotion is based on merit if:

- a. all eligible members of the community were given a reasonable opportunity to apply to perform the relevant duties; and*
- b. an assessment is made of the relative suitability of the candidates to perform the relevant duties, using a competitive selection process; and*
- c. the assessment is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required to perform the relevant duties; and*
- d. the assessment focuses on the relative capacity of the candidates to achieve outcomes related to the relevant duties; and*
- e. the assessment is the primary consideration in making the decision.*

Further, section 24 of the *Australian Public Service Commissioner's Directions 2022* (the Directions) states:

A selection process meets the requirements of this Subdivision if all of the following apply:

- a. the aim and purpose of the selection process is determined in advance;*
- b. information about the selection process is readily available to candidates;*
- c. the selection process is applied fairly in relation to each eligible candidate;*
- d. the selection process is appropriately documented.*

The requirements - *Public Service Act 1999*

The APS Employment Principles, set out in section 10A of the PS Act, comprise values that relate to workplace relationships. The APS Employment Principles stipulate that decisions relating to engagement and promotion are based on merit.

Subsection 10A(2) of the PS Act outlines the five requirements that must be met in order for employment decisions to be considered merit based. Each of the five requirements are of equal importance. Together, the requirements assist to build diversity, inclusion, equal opportunity and community trust by eliminating nepotism, cronyism and favouritism from APS recruitment. For an engagement or promotion decision to be based on merit, the recruitment process must be consistent with all five requirements.

Requirement 1: All eligible members of the community are given a reasonable opportunity to apply to perform the relevant duties.

What is this requirement and why is it important?

The merit principle requires that all eligible members of the public have an opportunity to compete for public service employment, on their own merits.

Agencies aim to recruit the most suitable candidate(s) with the right skills, capabilities and experience for a role. Because the most suitable people may not be current APS employees, agencies must provide clear, accurate and transparent information about the role to maximise their ability to attract and select the right candidates.

If this information is not provided, agencies limit the opportunity for all eligible members of the community to apply, and risk limiting the candidate pool, potentially missing out on talented candidates.

What is the practical application of this requirement?

Agencies can apply this requirement to their recruitment processes in the following ways.

Notify (advertise) the vacancy so it is accessible to the community

- ✓ the legislation prescribes that APS vacancies must be notified in the Public Service Gazette (PS Gazette). Agencies can include their vacancy in the PS Gazette by advertising on the APSJobs platform
- ✓ to demonstrate reasonableness, notifying the vacancy for **14 days** is recommended. However, agencies may consider a shorter notification period of 7 days or more. In exceptional circumstances, an Agency Head may provide approval for a period of less than 7 calendar days
 - notifying for a period less than 14 days may sometimes be reasonable in circumstances such as urgent business needs, time-sensitive projects or short-term vacancies. If such circumstances apply, it is incumbent on the advertising agency to document why the circumstances warranted a shorter notification period
- ✓ if additional platforms are used to advertise the vacancy, such as other online job boards, the opening and closing dates should be aligned across all platforms. If this is not possible, external advertising must occur within 4 weeks before or after the PS Gazette notification in accordance with subsection 25(7) of the Directions, and must have the same closing date as the day specified in the PS Gazette notification

Provide clear and accurate information about the vacancy

- ✓ clearly state the classification level, especially when advertising for multiple positions
- ✓ use plain language to accurately describe the duties and responsibilities
- ✓ clearly distinguish the essential (inherent) and the desirable requirements
- ✓ avoid jargon and unexplained acronyms

Provide clear and accurate information about the selection process

- ✓ provide reasonable information about the selection process, for example, the types of assessment activity that will be used, and whether AI or other automated tools will be used to assist with the process and how these will be used

- ✓ ask candidates if they require reasonable adjustments to be able to fully participate in the recruitment process
- ✓ provide information to candidates on how to apply, who to contact if they have questions about the role or agency and what to expect during the recruitment process

Be transparent about how merit lists or pools³ will be utilised

- ✓ be clear on the employment type of current and/ or future vacancies (ongoing/non-ongoing)
- ✓ be clear on the location(s) of the current vacancy(ies)
- ✓ be clear if flexible work arrangements can be accommodated e.g. full-time or part-time, remote, hybrid working or in office
- ✓ be clear on the location(s) of future vacancy(ies) that the merit list or pool may be utilised to fill

Agencies are encouraged to carefully review all information for vacancy advertisements before publishing in the PS Gazette to ensure the information is clear, accurate and accessible. This will assist in attracting candidates with the right skills and experience.

When agencies are considering how to be transparent with candidates about their vacancy, it is recommended that agencies consider other information that may be beneficial for a candidate to be informed of. For example:

- guidance on how candidates should structure their application (e.g. requesting a short cover letter addressing the selection criteria)
- insights into team style (e.g. this role is suited for a candidate who enjoys problem solving and a feedback centred team)
- information about the employment conditions, such as salary, entitlements etc.
- use of plain language to ensure information is clearly communicated.

Requirement 2: An assessment is made of the relative suitability of the candidates to perform the relevant duties, using a competitive selection process.

What is this requirement and why is it important?

This requirement is designed to ensure candidates are assessed in comparison to one another, with each candidate's suitability to perform the role evaluated relative to all other candidates. Specifically, candidates are assessed based on how well their skills, experience and qualifications are aligned with the duties of the role as set out in the job advertisement, in comparison to the other candidates that applied for the role.

Assessing the relative suitability of candidates is important because it assists selection panels to make objective, fair and unbiased employment decisions ensuring the most suitable candidate(s) are selected for the advertised role.

What is the practical application of this requirement?

To achieve this requirement, agencies must conduct competitive selection processes to compare all candidates' skills, experience and qualifications against the same role requirements and against each other.

³ For the purpose of this guide the term merit list is used to refer to the various types of merit lists created by agencies, including ranked merit lists, merit pools and ranked merit pools.

Competitive selection must occur throughout all stages of recruitment ensuring each candidate is assessed fairly and consistently. At each stage, including shortlisting, screening processes, interviews, assessments and decision-making, candidates must be compared against the requirements of the role, as well as against each other. This helps determine each candidate's suitability at each stage and supports informed decisions about which candidates should progress through the stages of the process.

For bulk recruitment processes, agencies must ensure that where multiple roles are advertised using the same Gazettal notice, the comparative assessment of candidates is separate for any roles that are not similar (in accordance with the definition of similar vacancy in section 9 of the Directions). This means that separate merit lists need to be created for all roles that are not similar. This doesn't mean that candidates are required to complete different assessment tasks (for example, submit separate applications or undertake multiple interviews), but candidates can only be compared against other candidates for the same roles.

For example, roles may be advertised together but not be similar because:

- they are different classifications, e.g. APS4 and APS5
- they require different work-related qualities, this includes technical/job specific work-related qualities, e.g. executive assistant role, customer service role and policy officer all have some similar work-related qualities but require different role specific work-related qualities that mean the roles are not similar

Where the same assessment process is used to assess different roles, agencies can structure the assessment to enable consideration of the different work-related qualities. For example, using different questions to assess different technical or job-specific work-related qualities, or developing questions to enable assessment at various classification levels. Further information is available on the [APSC Factsheet: Bulk recruitment](#)

Assessment of candidates

Agencies should:

- ✓ ensure the duties and role requirements are well understood by all panel members prior to commencing assessment
- ✓ ensure the aim of each assessment activity is well understood by all panel members prior to commencing assessment
- ✓ consider using a comparison matrix evaluation tool
- ✓ use a standardised evaluation form
- ✓ ensure the assessment methods are suitable to assess the skills the panel is trying to assess
- ✓ ensure separate comparative assessments and merit lists are created for roles that are not similar

Panels:

- ✓ should have a shared understanding of what a high-level candidate response should outline versus what an insufficient response lacks, ensuring consistency in evaluation
- ✓ should ensure candidates are evaluated in relation to the duties of the role – not just a classification
- ✓ should undertake independent candidate assessments, before discussing together (this does not need to be in writing and does not need to be included in the selection report)
- ✓ should consider using multiple assessment methods to support well-rounded evaluations of candidates' skills and experience

- ✓ must have a shared understanding of the rating system being used
- ✓ should have clear and aligned understanding of the pre-determined role requirements, and assessment criteria

Candidates must be assessed in competition

- ✓ ensure candidates are compared to all other candidates in contention for the role to determine suitability, not just a benchmark
- ✓ where a candidate or group of candidates is able to demonstrate a higher level of suitability, ensure this is reflected in any resulting merit list or ranked merit pool
- ✓ ensure merit lists or pools consist of candidates who are reasonably likely to be offered a role

In practice, this means that at each stage of the recruitment process, e.g. shortlisting, interview etc., candidates are assessed against the pre-determined criteria and comparatively against each other to determine the most suitable candidate(s) for the role.

Requirement 3: The assessment is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required to perform the relevant duties.

What is this requirement and why is it important?

This requirement ensures the assessment focuses on evaluating the skills and experience directly relevant to perform the role. It is designed to promote fair and transparent recruitment processes by assessing candidates against the role requirements and not on other unrelated factors, such as race, age, gender or sexual orientation.

What is the practical application of this requirement?

To achieve this requirement agencies must consider the following two elements:

Identify and define the role requirements that are genuinely required to perform the role.

The term 'genuinely required' means the specific work-related qualities that are truly required to perform the duties of the role. They must relate directly to the core responsibilities and requirements of the role, this includes both classification specific work-related qualities (as detailed in the Work Level Standards) and role specific/technical work-related qualities.

Work-related qualities are defined in Section 5 of the Directions as follows

Work-related qualities

Section 5 of the Directions provides seven broad examples of work-related qualities:

Skills and abilities (including experience) for example:

- communication
- project management
- problem solving
- Qualifications, training and competencies for example:
- formal certificates, degrees
- professional development short courses

Standard of work performance for example:

- attention to detail
- meeting deadlines
- delivering quality work

Capacity to produce outcomes from effective performance at the level required for example:

- delivering projects
- improving processes

Relevant personal qualities for example:

- resilience
- ability to work with ambiguity
- integrity

Demonstrated potential for further development for example:

- willingness to learn
- taking initiative to build new skills
- seeking feedback

Ability to contribute to team performance for example:

- team collaboration
- supporting colleagues
- contributing to positive team culture

It is important that selection panel members have a shared understanding of the work-related qualities required to perform the role. This supports the selection panel members to assess candidates' work-related qualities against the same criteria. Panel members may use a variety of tools to ensure they have a good understanding of the role, including discussing the role with other panel members, the

delegate and/or other subject matter experts, reviewing the position description, organisational chart and understanding the role's stakeholders and level of responsibilities.

Having a subject matter expert on a panel provides valuable insight into both the design of the assessment tools, as well as the evaluation of candidates. Subject matter expert's can provide expertise to ensure the assessment tools are fit for purpose and that candidates are evaluated against the role specific requirements in an informed way.

To help articulate standards of work to assess candidates against, agencies may use tools such as the:

- [APS Values](#)
- [APS and Executive Work Level Standards](#)
- [Secretaries' Charter of Leadership Behaviours \(DRIVE\)](#)
- [SES Work Level Standards](#)

Consider if the role requirements are essential (inherent) or desirable:

- ✓ essential (inherent) requirements are core components, such as knowledge, skills and abilities, required to perform the duties of the role. They may also include essential qualifications/certificates e.g. law degree. Where a role is advertised as requiring an inherent requirement or mandatory qualification, candidates who do not hold that qualification cannot be found suitable for the role, or
- ✓ desirable requirements are those that may be beneficial for the role but not required or may be able to be learnt while performing the role. These may include a professional certification or certain years of experience in a field.

Requirement 4: The assessment focuses on the relative capacity of the candidates to achieve outcomes related to the relevant duties.

What is this requirement and why is it important?

This requirement centres on how an agency evaluates a candidate's demonstrated ability to deliver and achieve specific outcomes expected for the role. It is important to recognise that outcomes go beyond just deliverables. They should reflect the candidate's overall work-related qualities, including personal qualities, behaviours and values.

The merit principle provides maximum flexibility for agencies to utilise what they determine to be the most appropriate assessment methods and tools to assist them to select the most suitable candidate(s) for a role. For example, assessments need not be limited to a structured interview. Panels may choose to use written assessments, scenario-based assessments, work samples, presentations or a combination, depending on the nature of the role.

What is the practical application of this requirement?

With a well-defined understanding of the role requirements (as outlined in requirement 3) and consideration of each agency's unique working environment, this requirement can be met by:

Choosing appropriate assessment methods and tools suited to evaluating a candidate's demonstrated ability to achieve the specific outcomes required for the role.

A selection and assessment process should provide candidates with the opportunity to demonstrate their skills and capabilities and how they relate to the skills and capabilities required for the advertised role. The selection panel is responsible for determining which assessment methods and tools are most appropriate to assess candidates' skills, knowledge and capability and their overall suitability to perform the role.

There are a number of different assessment methods and tools that agencies can utilise to effectively assess candidates' suitability for a role. Examples of assessment methods and tools can be found in the [APS Recruitment Guide](#).

In determining the most appropriate assessment methods, consideration should be given to the full scope of the role (e.g. how technical versus leadership skills might be assessed) and this should be decided in advance of the role being advertised (in accordance with element 1 and 2).

However, there may be circumstances where changes to planned assessment methods may be considered reasonable. For example, where an agency receives an unexpectedly high volume of applications and introduces an additional shortlisting step to identify candidates to progress.

When considering changes to advertised assessment methods, agencies should be mindful of ensuring that any change made does not unintentionally compromise equal opportunity for all eligible members of the community to apply.

Where previously communicated assessment methods do change during a recruitment process, agencies should inform all candidates of the changes at the earliest opportunity to support a merit-based selection process and ensure candidates have information about the selection process readily available to them.

It's important that agencies ensure the determined assessment methods and tools are applied in a way that provides all candidates equal opportunity to demonstrate their suitability for the role.

Requirement 5: The assessment is the primary consideration in making the employment decision.

What is this requirement and why is it important?

This requirement aims to ensure fair and transparent recruitment processes by requiring selection panels to only assess information collected during the selection process. This means decisions are based on only the information collected throughout the assessment process and ensures the focus remains on the candidates demonstrated ability to achieve the requirements of the role.

Making the assessment of candidates' work-related qualities the primary focus assists to eliminate any conscious or unconscious biases and helps ensure employment decisions are free from nepotism, cronyism, patronage and favouritism.

Secondary considerations may be taken into account where candidates are otherwise equal on merit. These should be directly relevant to the role requirements and be within the control of the candidate. For example, a candidate's:

- ability to start by a particular date
- willingness to relocate
- particular skillset or experience that would benefit the team, or
- ability to meet other reasonable agency requirements.

Personal characteristics including, but not limited to, race, age or sex cannot be considered when differentiating between equally suitable candidates.

To ensure transparency and accountability of decision-making, agencies must justify candidate selections, including any secondary considerations and clearly document all employment decisions.

What is the practical application of this requirement?

The selection process is the candidate's opportunity to put forward their work-related qualities, as they relate to the role, for assessment by the selection panel.

Selection panels must base their assessment of candidates' suitability for the role on only the information that has been collected throughout the assessment process.

Selection panels must be mindful of not relying on untested information they may know about candidates. For example, where a member of the panel has prior knowledge of a candidate and has views about their performance, or where the panel receives or solicits information about a candidate outside the planned recruitment activities to support the merit-based process (e.g. to test the claims of the candidate). Such information cannot be used alone to favour or disfavour a candidate. However, the accuracy and relevance of the information could be tested through the selection process, for example, by asking additional interview questions or through referee checks.

Importantly, where the panel receives or solicits information outside the planned recruitment activities as outlined above, in order for this information to be considered by the panel, the candidate will need to have been provided with a collection notice that informs the candidate that the agency and the panel may obtain personal information through its own inquiries, including information collected outside planned recruitment activities or from sources other than the nominated referees. Further to this, the information collected must be limited to information required in order to assess work-related qualities and must be fully documented. Where information received is adverse, the panel must provide the candidate with procedural fairness. As a general principle, procedural fairness requires the candidate to be advised of the nature of the adverse comments and provided with an opportunity to respond before a decision is made. It does not require the panel to provide the candidate with the actual referee report or the name of the person who provided it. For example, the panel may advise the candidate that the referee reports they received indicated the candidate had been subject to performance management concerning workplace behaviours. The panel can then provide the candidate with an opportunity to respond.

The approach taken by selection panels will need to be considered on a case-by-case basis.

Selection panels must document the assessment methods, the information collected and the assessment outcome in the selection report so the delegate can see how the information collected has been used to assess candidate suitability.

While agencies have discretion to determine the activities to include in a selection process, it is generally expected the assessment will include referee and integrity checks. Information from referee and integrity checks form part of the assessment and should inform the employment decision.

The elements - *The Australian Public Service Commissioner's Directions 2022*

In addition to the requirements of merit defined in the PS Act, section 23 of the Directions prescribes the standards Agency Heads and APS employees must meet to uphold the APS Employment Principles (see paragraph 10A(1)(c) of the PS Act) as it relates to employment decisions.

Further, section 24 of the Directions outlines four key elements that must be met for a recruitment process to be merit-based.

These elements are important because they support agencies to meet the five requirements of merit outlined above. They ensure recruitment processes are consistent with merit, promoting fairness, transparency, equal opportunity and objective decision-making.

Element 1: The aim and purpose of the selection process is determined in advance.

What is this element and why is it important?

Determining the aim and purpose of a selection process in advance is crucial. It ensures selection processes are consistent with merit by assisting agencies to clearly define the role requirements and to determine the most appropriate assessment methods and tools for the process.

Clear role requirements enable transparency and fairness in selection processes, attracting candidates with the right skills, capabilities and experience. It also ensures all eligible candidates have a reasonable opportunity to apply.

What is the practical application of this element?

Before advertising a vacancy, agencies should take the time to thoroughly plan their recruitment process. This means agencies should:

- ✓ understand the number of vacancies to be filled, and the:
 - employment type (ongoing/non-ongoing),
 - classification,
 - location, and
 - work arrangements
- ✓ establish if a merit list or pool will be formed for filling any similar future vacancies, and whether the merit list or pool will be shared with other APS, Parliamentary Services and Intelligence agencies
- ✓ clearly define the role requirements, including the duties and role responsibilities, determine the inherent requirements of the role and if there are any desirable requirements
- ✓ ensure the classification of the role is aligned with the work level standards of the relevant classification
- ✓ determine what assessment methods and tools are most appropriate to enable the selection panel to effectively assess candidates' suitability for the role.

Having a clear understanding of the aim and purpose of a recruitment process prior to advertising sets agencies up for success, ensuring the selection panel has clear expectations of what they need to do and that the advertisement will attract the right candidates.

Element 2: Information about the selection process is readily available to candidates.

What is this element and why is it important?

This element is important because it ensures candidates have a clear understanding of what the role is and what to expect during the recruitment process. Further, it allows candidates to make informed decisions about whether they have the required work-related qualities needed to perform the role and if they should apply.

It also ensures candidates can appropriately address the role requirements / selection criteria and demonstrate their suitability for the role when applying.

What is the practical application of this element?

Agencies need to ensure clear and concise information related to the recruitment process is included in the advertisement. Agencies must include the following information in the role advertisement:

- ✓ the duties and responsibilities of the role
- ✓ any mandatory or desirable requirements e.g. driver licence, specific qualifications
- ✓ the classification level of the vacancy
- ✓ the employment type of current and/ or future vacancies (ongoing/ non-ongoing)
- ✓ the location(s) of the current vacancy(ies)
- ✓ the office and flexible work arrangements that can be accommodated e.g. remote, hybrid working or in office
- ✓ the location(s) of future vacancy(ies) that the merit list or pool may be utilised to fill
- ✓ clarification on conditions of engagement in accordance with subsection 22(6) of the PS Act e.g. probation, security clearances, organisational suitability assessments, essential qualifications or character clearances

In addition, agencies should ensure they have processes in place to provide candidates with information on:

- ✓ what assessment methods or tools will be used to assess the candidates, including any planned use of AI as part of the assessment
- ✓ how many roles are being advertised, for example will the agency be advertising one vacancy or conducting bulk recruitment
- ✓ a contact officer who has sufficient knowledge of the role and is able to answer questions. This may or may not be a panel member
- ✓ timeframes for the process

This information could be:

- included in the advertisement
- included on the agency's website
- communicated directly to candidates
- made available to candidates who request the information, or
- via another mechanism.

Being transparent about the whole recruitment process supports agencies to attract candidates with the right skills, capabilities and experience required for the role and provides candidates with assurance that recruitment processes are transparent and fair.

Element 3: The selection process is applied fairly in relation to each eligible candidate.

What is this element and why is it important?

The community holds high expectations of the APS, and this element supports the APS in meeting those expectations by ensuring employment decisions are fair and transparent. This element ensures all eligible community members have a reasonable and equal opportunity to apply for, to demonstrate their work-related qualities and be considered for an advertised role, regardless of their background.

This means that all candidates, regardless of whether they are internal or external, should be treated similarly throughout the recruitment process, and not be impacted by barriers, prejudices or preferences. It is important to highlight that the selection process must be applied *fairly* in relation to

each eligible candidate, however this does not mean the selection process must be identical for each candidate.

The procedural aspects of the recruitment processes must also be managed fairly. These procedures are key to supporting a consistent and equitable selection process. Such as:

- appropriate management of conflicts of interest
- candidate care (e.g. avoiding delays, providing updates, providing feedback)
- appropriate panel conduct (e.g. acting professionally, treating candidates consistently and respectfully, maintaining confidentiality, adhering to relevant policies/procedures)

What is the practical application of this element?

In practice, this element requires agencies to clearly understand the aim and purpose of selection processes and determine the assessment methods and tools that will be used in advance of the process commencing, as well as ensuring that all necessary information is communicated to candidates throughout the process.

Agencies also need to consider how they can ensure that candidates have an equal opportunity to demonstrate their skills, abilities and qualities required for the role. This includes:

- ✓ designing selection processes so they do not unfairly advantage internal candidates over external candidates
- ✓ asking questions in a way that all candidates can fully demonstrate their skills and experience, including the transferability of skills to an APS context
- ✓ avoiding reliance on agency specific jargon or assumed knowledge about internal processes
- ✓ ensuring that candidates are provided with the opportunity to request reasonable adjustments throughout a process to enable each candidate to participate in the process to their full ability

To do this, agencies may choose to provide candidates with the option of using the assessment method and tool that they are most comfortable with; however, in doing this, agencies must ensure that proposed options of assessment methods and tools are being used to assess the same work-related qualities. This is called a differentiated recruitment process.

Agencies must ensure that using different assessment methods and tools for individual candidates does not impact the ability of the selection panel to comparatively assess all candidates fairly. Agencies must be able to demonstrate how the different assessment methods and tools allow the selection panel to assess the same work-related qualities. It is important to clearly document why those methods were used and how they evaluated the skills needed for the role. Further information and guidance can be found in the [Differentiated Recruitment Factsheet](#).

Element 4: The selection process is appropriately documented.

What is this element and why is it important?

Merit-based selection processes must be clearly and accurately documented, and decisions must be defensible. Sound record-keeping practices ensure transparency and accountability of decision-making and support agencies if a selection process is subject to a review process. This also helps improve efficiency when considering candidates for future vacancies where a merit list or pool has been created.

Documenting the selection process is important to demonstrate to the delegate that all aspects of merit have been met. It also reinforces the delegate's responsibility to ensure that the principles of merit are upheld and are clearly evidenced in the decision-making process.

What is the practical application of this element?

Agencies can achieve this element by clearly and accurately documenting the selection process in a selection report. The selection report must demonstrate how a selection panel has:

- assessed candidate suitability against the work-related qualities required for the role, and
- comparatively assessed candidates to determine relative suitability (including reflecting high-performing candidates appropriately in any merit list or ranked merit pool).

The selection report should also outline the information collected by the selection panel at each stage of the selection process (e.g. application, interview, referee reports) as well as the recommendations being made to the delegate regarding which candidate(s) were suitable/unsuitable. If the agency is forming a merit list or pool, the selection report should detail which candidates are in the list or pool (this includes where a candidate is being recommended for engagement/promotion).

It is good practice to ensure that where adverse referee comments are made that may negatively impact a candidate's assessment and influence a decision on their suitability, that any reply from a candidate is also recorded in the selection report. Recording all this information accurately provides the delegate with sufficient evidence to determine if the process was consistent with merit and that the most suitable candidate(s) have been selected to fill the role.

Further guidance on record-keeping and information management for agencies is available from the National Archives of Australia at [Information management | naa.gov.au](https://www.naa.gov.au). Agency record keeping practices must also comply with the *Privacy Act 1988*. More information is available from the Office of the Australian Information Commissioner at [Government agencies | OAIC](https://www.oaic.gov.au).

Further guidance on the elements of merit

Agencies must ensure that the requirements and elements of merit outlined in this document are met at each stage of the recruitment process (for example planning, attracting and selecting) including when using an outsourced recruitment provider. Ensuring these requirements and elements are met helps to promote transparent, fair and efficient selection processes.

When selecting a candidate from a ranked merit list, merit pool or ranked merit pool, agencies must ensure that the decision is made in accordance with the Employment Principles and the reason for the decision is documented.

Reasonable adjustments

Reasonable adjustments in a recruitment process are adjustments or changes made to the process to support a candidate to have a fair and equal opportunity to demonstrate their skills and experience relevant to the role they have applied for.

Selection assessments are undertaken to allow the selection panel to identify candidates' work-related qualities and capabilities. Selection panels should consider and focus on what needs to be assessed, rather than how it is assessed.

While the selection process must be applied *fairly* to each eligible candidate, it does not mean they must be identical for each candidate. Supporting reasonable adjustments provides fairness by removing barriers and giving all candidates (such as those with disability), an equal opportunity to participate to their full ability. Fairness is achieved by recognising and accommodating individual needs, rather than applying the same approach for all candidates regardless of their circumstances.

Other important considerations to take into account when considering a reasonable adjustment request may include:

- will supporting the reasonable adjustment adversely impact on a merit-based assessment or would it enable the equitable participation of a candidate?
- can the agency accommodate the request? For example, does it impose an unjustifiable hardship on the agency or disproportionately impact on the fairness of the process.
- does the assessment scenario accurately reflect the day-to-day duties required for the role? For example, a candidate who has applied for an APS 4 Administration Officer, has requested to receive the interview questions 24 hours prior to the interview due to their anxiety condition. The agency agrees to the reasonable adjustments and acknowledges that the incumbent of the role will not be expected to regularly manage high pressure, short turnaround requests (such as in an interview setting) without appropriate support in place to manage such tasks.

It is important that all requests for reasonable adjustments be considered on a case-by-case basis, with respect to the individual's needs and specific role requirements.

The best selection outcome will be achieved where reasonable adjustments are supported in circumstances that allow candidates the opportunity to demonstrate their work-related qualities and capabilities to their full ability.

Modified merit

Subdivision C of the Directions outlines circumstances where merit-based selection processes are either modified or, in limited circumstances, are not required. These selection processes are referred to as modified merit processes.

Types of processes where modified merit may be applied include:

Affirmative measures

The Directions (sections 31 to 33 inclusive) provide for targeted measures to increase the diversity of the APS workforce through Affirmative Measures for Aboriginal and/or Torres Strait Islander and disability employment.

An Affirmative Measures recruitment process does not result in a change to the requirements or standards of a role but limits eligibility to people with disability or Aboriginal and/or Torres Strait Islander peoples. These measures support the diversity of the workforce by addressing the underrepresentation of these groups of people within the APS. **Outside of limiting eligibility of who can apply for Affirmative Measures roles, all other merit requirements must be met throughout the process.**

The RecruitAbility Scheme provides for candidates with a disability, who meet the minimum requirements for a position and choose to opt into the scheme, to be advanced to a further stage in the selection process. A candidate meets the minimum requirements of a vacancy if considered to meet the minimum standards that the job requires to perform the duties (for example, work level standards or technical requirements) and any eligibility requirements for the position (e.g. qualifications).

This scheme supports increasing the representation of people with disability in the APS.

Non-ongoing engagements (including casual employees)

A modified merit process may occur where an agency has a short term or casual vacancy. Merit is modified in these circumstances on the basis that it may not be reasonably practicable or cost effective to undertake a full merit-based selection process.

Modified merit in these circumstances requires that a vacancy be, as far as practicable, brought to the notice of the community to provide a reasonable opportunity for eligible members of the community to apply. For example, vacancies can be advertised on an agency's website, job seeker sites, social media or using an agency's or recruitment firm's temporary register. It also requires that the Agency Head must be satisfied that the person to be engaged has the work-related qualities genuinely required to perform the relevant duties.

The engagement term for a non-ongoing engagement following a modified merit process are outlined in section 27 of the Directions. Further information is available on the [Non-ongoing and Casual employment webpage](#).

Types of processes where a merit-based process may not be required include:

Engagement of a non-APS employee following a machinery of government change

In accordance with section 72 of the PS Act, engagement of non-APS employees will occur where it has been determined in writing that non-APS employees will cease to be employed as non-APS employees and will be engaged as APS employees, through a machinery of government change process.

Engagement of an ongoing Parliamentary Service employee as an ongoing APS employee

Section 36 of the Directions provides that an ongoing Parliamentary Service employee may be engaged as an ongoing APS employee where the person is to be engaged at a classification that is comparable to or lower than their Parliamentary Services classification.

Engagement of ongoing APS employee as a non-ongoing APS employee

Section 29 of the Directions provides that an Agency Head may engage an employee who is currently an ongoing employee to perform duties as a non-ongoing employee. For this to occur the person needs to be engaged for a specified term or task, resign as an ongoing employee and be engaged in the non-ongoing duties at the same or lower classification level. Circumstances where this may be considered should be limited, for example, where it is at an employee's request to support their transition to retirement plan.

Engagement of non-ongoing APS employee as ongoing employee in exceptional circumstances

Section 30 of the Directions provides that the APS Commissioner may approve engagement of a non-ongoing APS employee as ongoing only in exceptional circumstances. An Agency Head can only make such request where it is necessary for operations, the duties are more appropriately undertaken by an ongoing APS employee, the person has the work-related qualities required to perform the role,

will be engaged at the same or equivalent classification level and their original engagement was the result of a merit-based process.

Re-engagement of election candidates

In accordance with section 32 of the PS Act, a former APS employee who resigned to contest an election for a member of the House of Parliament of the Commonwealth or of a State, of the Legislative Assembly of ACT or NT or of the Torres Strait Regional Authority, may make a request to the Agency Head to be re-engaged within 2 months of an election result.

Further processes where a merit-based process may not be required on the basis that the individual has previously been selected through an APS, or comparable, merit-based selection and will be engaged at the same (or equivalent) or lower classification level, include:

Re-engagement of a former APS employee

In accordance with section 28 of the Directions, the re-engagement of a former APS employee may occur where an Agency Head is satisfied that the person's employment should not have ended, will settle legal action relating to the termination or an appropriate authority has recommended or ordered the reinstatement of the employee.

Promotion after appointment to a statutory office

In accordance with section 34 of the Directions, the APS Commissioner may authorise a promotion decision of an ongoing APS employee who was granted leave without pay for appointment to a statutory office (where the Commissioner, or representative is required to participate in the selection process for the office), where the appointment has not expired or expired no more than 3 months prior to the request. The promotion (assignment of duties) must be at an APS classification level that is an equivalent level or lower, than the duties of the statutory officer, and the employee must have the required work-related qualities to perform at the classification level.

Engagements of persons from a state or territory jurisdiction

A person who is currently employed by a State or Territory (or an authority of a State or Territory) may be engaged as an APS employee on a non-ongoing basis, to support formalising of secondment arrangements between different levels of government.

The history of merit in the APS

"...all appointments and promotions shall be based upon a just and equitable system excluding all political or other patronage, throwing all appointments open to rich and poor alike, and establishing merit combined with fitness as the only basis of selection"⁴

To better understand the concept of merit in the APS, it's worth looking at the history and how the PS Act has evolved over the years.

<p>1902</p> <p><i>Merit enshrined in the introduction of the Public Service Act 1902 (1902 Act), as the principle to staff the APS. This was largely by way of prescribed competitive examinations.</i></p>	
	<p><i>The Public Service Act 1922, reinforced merit, remaining largely unchanged, however operated selectively with preferences to returning soldiers, and restrictions based on gender, marital status, age and background.</i></p> <p>1922</p>
<p>1975</p> <p>Creation of the Merit Protection and Review Agency (now the Merit Protection Commissioner).</p>	
	<p><i>By mid-1980's, the majority of the restrictions incorporated in 1922 were removed, with the aim to strengthen the APS capability and eliminate nepotism and patronage in employment decisions.</i></p> <p>1980s</p>
<p>1984</p> <p><i>The requirement for people to have a reasonable opportunity to apply for roles was introduced into the PS Act.</i></p>	
	<p><i>Merit as we know today, for engagement and promotion decisions, included and defined in the Public Service Act 1999 (PS Act) subsection 10A(2). The APS Values and Employment Principles were also enshrined in legislation.</i></p> <p>1999</p>

⁴ Public Service Commissioner's First Annual Report 1904

Embedding merit in the 1902 PS Act was a crucial step forward to achieve the elimination of nepotism and patronage in APS recruitment decisions, yet its initial implementation included several significant exceptions which challenged the overall application and intent of merit. Over the years noteworthy amendments were made to strengthen the application of merit including allowing for all APS vacancies to be open to the public and prevention of discrimination in employment decisions.

The introduction of further anti-discrimination legislation, alongside the establishment of the Merit Protection and Review Agency (now the Merit Protection Commissioner), reinforced the significance of merit and continues to support transparency, accountability and equal opportunity in APS employment.

The incorporation of the APS Values and Employment Principles into the PS Act was a statement reinforcing the APS's identity as an institution and reflected public expectations of the relationship between the APS and government, the Parliament, and the Australian community.

The merit principle as it today provides a framework to support a modern, diverse and accountable APS, starting with fair and transparent selection processes and ensuring the APS engages people with the right capabilities, skills and expertise required for roles. The merit principle, together with the APS Values, Employment Principles and Code of Conduct, shape organisational culture and guide employment decisions and workplace expectations within the APS.

Glossary

Affirmative measures – Aboriginal and Torres Strait Islander employment	A recruitment process in accordance with section 31 of the <i>Directions</i> which allows agencies to open a vacancy so that only Aboriginal and Torres Strait Islander people are eligible to apply.
Affirmative measures – disability employment	A recruitment process in accordance with section 33 of the <i>Directions</i> that enables an agency to open a vacancy so that only people with disability, or a particular type of disability, are eligible to apply.
Affirmative measures – RecruitAbility Scheme	The RecruitAbility Scheme is an affirmative measure provision under section 32 of the <i>Directions</i> and aims to attract and recruit people with disability to the APS.
Australian Public Service (APS)	The APS is defined in section 9 of the PS Act as consisting of Agency Heads and APS employees.
Australian Public Service (APS) employees	An APS employee is a person engaged under section 22 of the PS Act or a person engaged as an APS employee under section 72 of the PS Act.
Australian Public Service Commissioner's Directions 2022 (Directions)	The Directions are developed by the Australian Public Service Commissioner in accordance with subsections 11(1), 11A(1), 11A(2) and 15(6) of the PS Act. The Directions prescribe standards that Agency Heads and APS employees must uphold to meet their obligations under the PS Act. It provides details on the application of the APS Values and APS Employment Principles, and provisions relating to recruitment and selection; performance management; handling of suspected breaches of the Code of Conduct; and other employment matters.
Behaviours	How an employee performs their duties and delivers expected outcomes. Behaviours must be consistent with the APS Values and Employment Principles and comply with the Code of Conduct.
Bulk recruitment	Bulk recruitment, also sometimes referred to as large-scale recruitment, describes recruitment processes that are designed to fill multiple vacancies.
Classification level	The classification listed in the Classification Rules assigned to a role based on an assessment of the duties of the role against the Work Level Standards.
Delegate	For purposes of recruitment, the person who ultimately makes the decision to recruit a candidate to a vacancy. If this person is not the Agency Head, they will need to possess powers delegated by the Agency Head under the PS Act.
Flexible work arrangements	Work options that allow employees (subject to approval) to vary their hours, location, or work patterns (e.g., remote work, flexible start/finish times, job-sharing, part-time hours) to accommodate individual needs.

Inherent requirements	Core components, such as knowledge, skills and abilities, required to perform the duties of the role. They may also include essential qualifications/certificates e.g. a law degree.
Merit pool	A pool of candidates for a vacancy, in respect of which each candidate included in the pool has been assessed as being suitable for the vacancy. That is the candidates have been assessed as equally suitable.
Procedural fairness	A legal requirement in administrative decision-making, procedural fairness requires that a person be given a fair hearing by the decision-maker and, before an adverse decision is made, the person affected by the decision is informed of all information that is adverse, relevant and credible and is given a fair and reasonable opportunity to make a submission in reply. Another requirement is that the decision-maker is free of actual or apprehended bias.
Public Service Act 1999 (PS Act)	<p>The PS Act is the principal act governing operation of the Australian Public Service. The main objectives of the PS Act, outlined in section 3, are to:</p> <ul style="list-style-type: none"> • establish an apolitical public service that is efficient and effective in serving the Government, the Parliament and the Australian public • provide a legal framework for the effective and fair employment, management and leadership of APS employees • define the powers, functions and responsibilities of Agency Heads, the Australian Public Service Commissioner (the Commissioner) and the Merit Protection Commissioner (MPC)- external site and • establish the rights and obligations of APS employees.
Public Service Regulations 2023 (Regulations)	The Regulations provide further detail on the operation of the PS Act. The Regulations have provisions relating to the Code of Conduct; review rights; independent selection advisory committees; the functions of the Commissioner and the MPC; the employer powers of Agency Heads; non-ongoing (temporary) employment arrangements; and the use and disclosure of personal information.
Ranked merit list	A list of candidates for a vacancy, in respect of which each candidate included in the list has been assessed as being suitable and has been ranked in order of suitability
Ranked merit pool	A pool of candidates for a vacancy, in respect of which each candidate included in the pool has been assessed as being suitable for the vacancy and is assigned to a group of candidates with a similar suitability for the vacancy, and each group of candidates is ranked in order of suitability
Reasonable adjustment(s)	Adjustments or changes made to the recruitment process to support a candidate to have a fair and equal opportunity to demonstrate their skills and experience.
Secondary considerations	Factors not directly connected to the work-related qualities of a candidate but within a candidate's control, that may be used to separate candidates who are otherwise assessed as equally suitable for a vacancy. Examples include ability to start by a particular date and willingness to relocate.

Selection panel	Selection panels, sometimes called selection committees, are an important element of the recruitment process. Selection panels assess candidates and make merit-based recommendations to the delegate regarding the suitability of candidates.
Shortlisting	The assessment of candidates' applications to determine which candidates are potentially suitable for the vacancy and will progress to the next stage of assessment.
Unconscious bias	The unintentional stereotypes and beliefs about different social and identity groups that are automatic and/or ingrained and can influence behaviour and perceptions and actions.
Vacancy/role	A specified group of duties that are to be performed by an employee. A role that is the subject of a recruitment process is a vacancy.
Work-related qualities	The qualities a person requires in order to perform the duties of a role. These include: <ul style="list-style-type: none"> • skills and abilities • qualifications, training and competencies • standard of work performance • capacity to produce outcomes by effective performance at the level required • relevant personal qualities, such as honesty and integrity • potential for further development, and • ability to contribute to team performance.

Further information

APS employees seeking further advice about recruitment matters should contact their agency's HR area in the first instance.

Guidance on APS employment legislation and policy matters is available on the APSC [website](#).

HR practitioners and senior decision makers seeking further information or advice on applying merit can contact the Employment Policy team via employmentpolicy@apsc.gov.au or call the advice line on (02) 6202 3857.

Other resources

[Recruitment factsheets, case studies and templates](#)

[The APS Recruitment Guide](#)

[Merit Protection Commissioner](#)