

[PERSONNEL: ANN VILLIERS]

The muddled thinking that muddies 'merit'

APS Values

Misunderstandings about what the merit principle means has mired recruitment in red tape

Treform blueprint *Ahead of the Game* proposes reformulating the Australian Public Service's Values to create "a smaller set of core values that are meaningful, memorable and effective in driving change". The advisory group behind the blueprint considers merit-based employment to be a candidate for a "core value".

The Public Service Commission issued a discussion paper recently on the APS Values. After examining the values and codes of other countries and jurisdictions, the paper notes, "There is, nonetheless, a question mark about whether to include merit in a values statement when the concept begs a clear definition, including how and in what circumstances it will be applied. If this principle is not part of a revised APS values set, where should it be appropriately identified to provide whole-of-service coverage?"

In leading the Values review, the commission now has an opportunity to

about the merit question will help boost confidence that it does work in practice.

What is merit?

So let's be clear about merit. It is not a value. It is a principle that underpins specific kinds of decisions – namely employment decisions and specifically appointments, promotions, transfers and other movements of staff.

The principle is that employment decisions are based on a person's ability to do the job as reflected in their knowledge, skills, qualifications, experience and potential for further development. Principles that are not applied to employment decisions are age, seniority, length of service, marital status, cultural heritage, or with whom a person is mates.

This decision-making process is also meant to be objective, transparent, fair, devoid of patronage, favouritism and unjustified discrimination.

The Public Service Act makes clear that a decision related to engagement or promotion of staff is based on merit if it uses a competitive process and is based primarily on capacity to do a job and deliver results. This captures the nub of the principle.

Create employment principles

What flows from this is that merit needs to be moved in the Act to Part 4 ("APS employees) under a new section on



Merit "failure": The Lake George zebras breached some public servants' idea of probity.

answer the vexed question: what is merit? Providing clarity will help end the muddled thinking that muddies employment decisions.

The discussion paper itself reflects this muddled thinking by referring to merit as a quality, a principle and a value. My scan of other jurisdictions' legislation, agency policies and definitions shows merit is referred to as "the merit value", as "a principle underlying

employment principles. The new section would reduce duplication and allow for other relevant existing "values" to be included. Examples are the values about community access to jobs and a fair system of review of decisions. There is no need to include a separate value that the APS focuses on achieving results. A results-focus is already part of the definition of merit and is entrenched in the capability framework, along with

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certain decisions" and "a basis for making decisions", and as "embodying an ethos targeted at the achievement of best practice HR management". Unsurprisingly, then, that people are confused.

This confusion has consequences. One is the continuing life of recruitment myths, some of which are identified in the blueprint. Another is the effect on perceptions. *State of the Service* reports show that employees' perceptions of how merit is applied have been relatively low. A range of factors affect whether someone is likely to perceive a lack of merit in recruitment processes; however, what the reports do identify is that misunderstandings of the concept of merit, particularly as it relates to non-ongoing movements, still exist. Clarity

providing a rewarding workplace and encouraging consultation and cooperative relations.

This move would help clarify merit in relation to ongoing positions. Attention must then be given to simplifying the application of merit to non-ongoing positions so managers can be more efficient and use these positions to support a career-based service.

Review good practice

There is more to answering the merit question than changing language and the Act. Understanding of the merit principle is further muddled when translated into policies and procedures to guide practice.

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State of denial:

The Palm Island affair

The Bligh Government is sanctioning questionable police behaviour. Sound familiar?

In Queensland, patients died in public hospitals because of the practices of some doctors recruited from overseas; doctors whose credentials were not properly checked and whose practices were not properly overseen. But the then Beattie government never sacked a minister.

In Queensland, nurses, health administrators and even some doctors went unpaid because of a flawed payroll system. But no minister took responsibility or resigned, nor did Premier Anna Bligh discipline anyone in her cabinet.

In Queensland, inmates in supervised prisons died. But no minister took responsibility and no minister has been sacked.

In Queensland, the Crime and Misconduct Commission recently found the state police's investigations into one of its own officers was found wanting. This means the police commissioner's leadership was also wanting.

And now for the latest story from up north. A month ago, the commission, which is the state's post-Fitzgerald

inquiry anti-corruption body, issued a report, *Review of the Queensland Police Service's Palm Island Review*. For those who don't know, Palm Island is off Townsville in north Queensland and has been designated an Aboriginal reserve for some time.

In November 2004, police officer Sergeant Chris Hurley arrested an Aborigine, Mulrunji Doomadgee, and placed him in the local watch-house. Mulrunji later died in his cell when Hurley accidentally fell on him during a scuffle. The police conducted an internal inquiry in the days immediately after Mulrunji's death. It confirmed the accidental explanation.

However, the acting state coroner, in the second inquest into Mulrunji's death, reported in September 2006 a range of dissatisfactions with the police's initial internal review of Hurley's behaviour. The director of public prosecutions also believed Hurley had a case to answer.

In 2007, Hurley was tried for manslaughter of Mulrunji. He was later acquitted and has returned to work.

After the acting state coroner criticised the internal review, Queensland's police commissioner formed a special investigations review team in December 2006 to respond to the issues. The team reported in November 2008.

However, the Crime and Misconduct Commission was unsatisfied with the

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When considering an applicant's case, selection panels become confused about what it means to treat people fairly, apply natural justice principles and make a merit-based decision. Giving people a fair go becomes equated with sameness, resulting in both unfair and absurd results.

For example, I ring a contact person for information about a job. They mention that a strategic document exists that is relevant to understanding this job. I am refused access to this document because it can't be made available to all other applicants. On the one hand I'm encouraged to ring to find out more about a job, but am then denied access to information. Yet if I don't ring and misalign my application I risk being dismissed for not showing enough initiative to make the call.

The absurdity of selection panel's muddled thinking on merit and fairness can be illustrated by considering the recent case of the zebra sculptures on Lake George. If a selection panel was deciding whether to allow the animals to stay, they would say no on the basis of lack of fairness because the community hasn't had the opportunity to offer alternatives. The fairness value is both misunderstood and misapplied, thereby undermining merit-based decision making.

The Public Service Commission has been encouraging panels to adopt greater flexibility, as have other jurisdictions. The Northern Territory's *Merit Selection - Good Practice* guidelines ask useful questions that go to the core of merit and fairness in practice. Two questions the APS should consider relate to internal applicants and rating scales.

Regarding treating internal applicants the same as external candidates, the guidelines ask, "What meaningful

information will a panel gather from interviewing someone who has already been working in the job, or whose capacity to perform is already well known to the agency through demonstrated on-the-job performance?" Given the merit principle is about a person's capacity to do a job, treating known performers the same as unknown performers surely needs a rethink.

On the second matter, the guidelines question whether applicants should be rated as "unsuitable", a commonly used option on assessment rating scales. Such ratings are demoralising for competent staff and err on performance management rather than staff selection. Surely, it is enough to point out areas in which an applicant needs to develop or indicate areas where there is insufficient evidence to make a merit-based decision. Yet agency selection policies continue to insist that all applicants be treated the same and that insidious labels like "unsuitable" and "unsatisfactory" be applied.

Guiding agencies to review their policies and procedures will do more than improve merit-based decision making. It will improve efficiency, help with streamlining recruitment, make recruitment processes more transparent and applicant-friendly, and support career mobility. That's a sizeable return for a little clarity.

What's more, the question, "What is merit?" is not only an issue for the APS. The states and territories experience similar confusion. Given the tendency to adopt and adapt what the APS does, the commission can provide leadership across the country.

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