

Annual report to the Premier

Public service appeals 2013-14

19 September 2014

The Honourable Campbell Newman MP
Premier of Queensland
Level 15 Executive Building
100 George Street
BRISBANE QLD 4000

Dear Premier

I am pleased to present the annual report on public service appeals considered during the 2013-14 financial year, fulfilling the requirements of section 218C of the [Public Service Act 2008](#) (the Act).

Public service appeals are heard by members of the Queensland Industrial Relations Commission (QIRC) appointed as Appeals Officers under section 88A of the Act.

This report details the appeals started, lapsed, withdrawn or decided in relation to public service employees during the reporting period.

Appeals received decreased by 38% in 2013-14. This continues a downward trend over the past six years, consistent with efforts to improve agency decision making, review and simplify directives and improve communication about the limited scope of appeals.

A further reduction in appeals has resulted following the 21 June 2013 repeal of [Directive 08/10: Managing employee complaints](#).

Pursuant to section 218C(2) of the Act, I welcome requests for further information concerning the report.

Yours sincerely



Andrew Chesterman

Commission Chief Executive, Public Service Commission

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About the report

This report has three areas:

Part A includes an overview of the purpose and history of public service appeals.

Part B includes a snapshot of public service appeals data for 2013-14, and highlights achievements and future priorities.

Part C includes public service appeals data for 2013-14.

Part A: Overview

Purpose of public service appeals

Public service appeals (appeals) provide an avenue for Queensland public service employees to seek a review of decisions that affect them (in addition to rights under industrial relations legislation). Appeals support integrity, accountability, and ethical and equitable work practices and decisions in the public service.

Appeal rights in their current form can be traced back to the now repealed [Public Sector Management Commission Act 1990](#) and have been heard and decided by various bodies and officers since that time as set out in Table 1.

Table 1: Jurisdiction to hear and decide public service appeals

Date	Officer/body with jurisdiction to hear and decide public service appeals
1990 – 1996	Commissioner for Public Sector Equity or the Classification Review Tribunal.
1996 – 2010	Appeals made to the Public Service Commissioner (who delegated power under the legislation to hear and decide appeals of public service employees).
1 November 2010 – 1 July 2012	Statutory role of appeals officer who was appointed as a Senior Executive of the public service. Sessional adjudicators were also utilised as required by a delegation from the appeals officer.
1 July 2012 – present	Appeals officers who are also members of the Queensland Industrial Relations Commission (QIRC).

Appealable public service decisions

Decisions which may be appealed against (and by which type of employee) are listed in section 194 and 196 of the *Public Service Act 2008* (the Act). Broadly, appeals can be made against the following types of decisions:

- a decision to take, or not to take action under a directive (if the public service employee is entitled to appeal under [Directive 2/14: Appeals](#))
- discipline decisions for a public service employee or a former public service employee if the employee is entitled to appeal under a directive made by the Commission Chief Executive (a CCE directive)
- promotion decisions (if the public service officer aggrieved by the decision is entitled to appeal under a CCE directive)
- decisions regarding the continuation of an employee's temporary employment status
- transfer decisions for public service officers
- suspension without pay
- decision not to relocate a public service employee who has made a public interest disclosure (section 47, [Public Interest Disclosure Act 2010](#))
- a decision about anything else against which another Act allows a person to appeal (section 194(1)(f)).

A person must have standing to appeal, as set out in section 196 of the Act. [Directive 2/14: Appeals](#) (issued by the Commission Chief Executive) provides more specific rules and requirements for the appeal process.

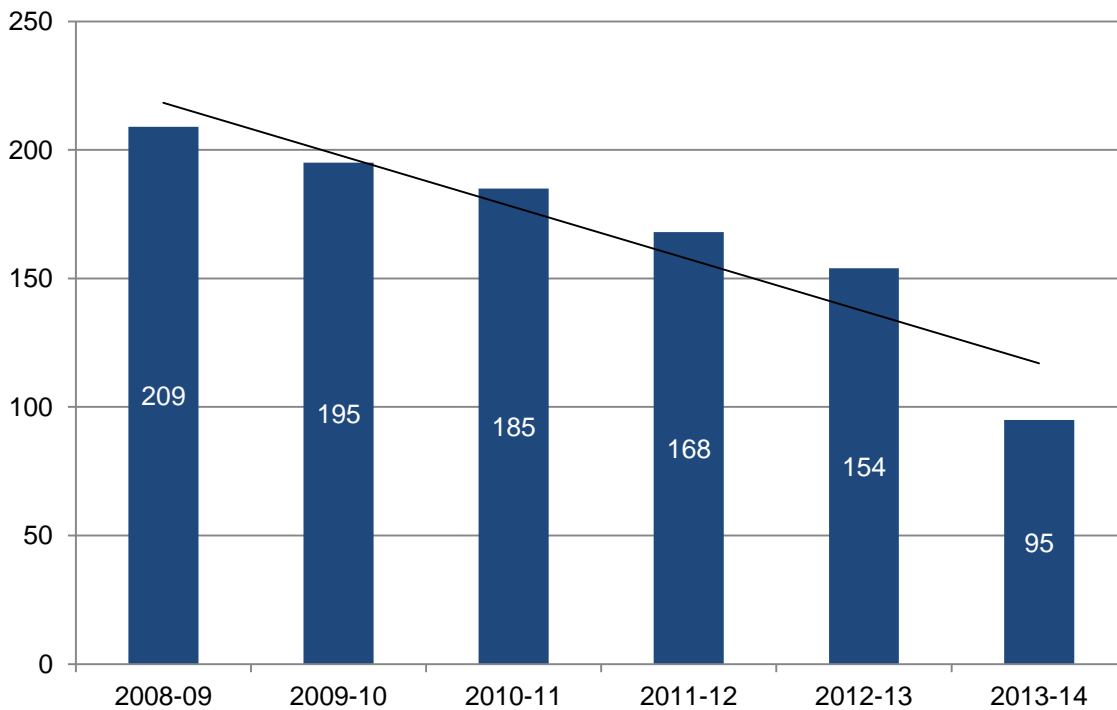
An appeals officer must perform their duties independently, impartially, fairly and in the public interest without direction from the Public Service Commission (PSC), the Commission Chief Executive or a Minister.

Part B: Snapshot of public service appeals 2013-14

Appeals received in 2013-14 decreased by 38 per cent (from 154 in 2012-13 to 95 in 2013-14). This continues a downward trend that has occurred over the past six years, and is consistent with PSC efforts to improve agency decision making, review and simplify directives, and improve communication about the limited scope of appeals.

In 2013-14, 14 per cent of appeals were allowed (11 out of 77 appeals received and finalised). This is a five per cent increase from 2012-13 where nine per cent of appeals were allowed (12 out of 139 appeals received and finalised).

Figure 1: Public service appeals received from 2008 to 2014



Achievements 2013-14

- Following the 21 June 2013 repeal of [Directive 08/10: Managing employee complaints](#) there has been a further reduction in complaints. Notably:
 - decisions under a directive appeals reduced by 85 per cent (from 20 in 2012-13, to three in 2013-14)
 - transfer appeals reduced by 62 per cent (from 47 in 2012-13, to 18 in 2013-14)
 - decision - complaint/grievance outcome appeals reduced by 25 per cent (from eight in 2012-13, to six in 2013-14).
- The PSC Advisory Service continued to provide general advice about the appeal provisions of the Act to public service employees and to agency human resources and industrial relations practitioners. In 2013-14, the PSC Advisory Service responded to 120 enquiries about appeals.
- The PSC introduced [Directive 15/13: Recruitment and Selection](#), 1 November 2013, replacing four directives and one guideline¹. This revised directive simplified advertising requirements, introduced a general discretion for chief executives to limit advertising or exempt a vacancy from advertising where justified, clarified the meaning of merit assessment, and introduced a greater emphasis on assessment of applicants to achieve good recruitment and selection outcomes.
- The PSC conducted workshops for 50 public sector human resource professionals to increase their awareness of the policy and practice changes in [Directive 15/13: Recruitment and Selection](#) and supporting materials. It is hoped that these activities will lead to better recruitment and selection, and decision-making across the public service.
- A review of [Directive 19/10: Appeals](#) was completed by the PSC in June 2014. Consequently, [Directive 19/10: Appeals](#) was repealed, 27 June 2014 and replaced by [Directive 2/14: Appeals](#). The revised directive clarifies what decisions may be appealed, and reflects the transfer of appeals management to the industrial registry in 2013 and changes to directives².
- The PSC developed a [fact sheet: Public service appeals](#) to explain key changes made to [Directive 02/14: Appeals](#) to stakeholders.
- The senior appeals officer revised the [Appeals Guide](#) that provides guidance on how to submit or respond to a public service appeal.
- The PSC established a Conduct and Performance Excellence (CaPE) service to provide the support, systems and access to skills to managers and human resources professionals in agencies to better manage conduct and performance (including prompt management of minor misconduct matters by agencies). The CaPE service was established in response to recommendations made in a number of key reports and enquiries³. The theme of these reviews

¹ [Directive 1/10: Recruitment and selection](#), [Directive 5/11: Amendment of Directive 1/10 – Recruitment and Selection](#), [Directive 6/11: Graduate program – Recruitment and Selection](#), [Directive 23/10: Post-separation discipline](#) and the Guideline on the use of identified positions in Queensland public sector entities.

² The repeal of [Directive 08/10: Managing employee complaints](#) and [Directive 21/10: Employee performance management](#), and changes to [Directive 15/13: Recruitment and selection](#).

³ These include the Review of the [Crime and Misconduct Act 2001](#) and related matters, ([the Callinan and Aroney report](#)), the Inquiry into the Crime and Misconduct Commission's release and destruction of

and recommendations was to return the management of minor misconduct matters to agencies to deal with promptly. The PSC has a role in monitoring and auditing agency responses.

Priorities 2014-15

- The CaPE service commenced operation 1 July 2014. Throughout 2014-15, it is anticipated this service will improve sector wide decision making about conduct and performance.
- Following the release of [Directive 2/14: Appeals](#), the senior appeals officer released a revised [Appeals guide](#) in July 2014.
- On 15 July 2014, the senior appeals officer issued three new practice directions: No. 1 of 2014: [Appeal decision without hearing](#), No. 2 of 2014: [Representation of parties](#), and No. 3 of 2014: [Promotion appeals](#).
- The senior appeals officer and the industrial registry will redesign the [QIRC website](#) to incorporate all appeal content. Direct links from the QIRC website, to appeal content on the [PSC website](#) will be established.
- It is anticipated that CaPE's support of managers and human resources functions in agencies to promote excellent conduct and high performance as well as manage poor conduct and performance (including prompt management of minor misconduct matters by agencies) will improve agency decision making about conduct and performance across government.
- In 2014/15, the CaPE service will lead PSC's delivery of state-wide, half-day, practical workshops for managers and human resources professionals to enhance agency capabilities to promote excellent conduct and high performance. The workshops will cover:
 - recruitment, selection and on-boarding;
 - setting performance expectations and performance conversations;
 - employee complaint management; and
 - managing poor performance through management action or discipline.

The PSC will continue to monitor the impact of the CaPE service and the repeal and amendment of directives to the number and type of appeals received.

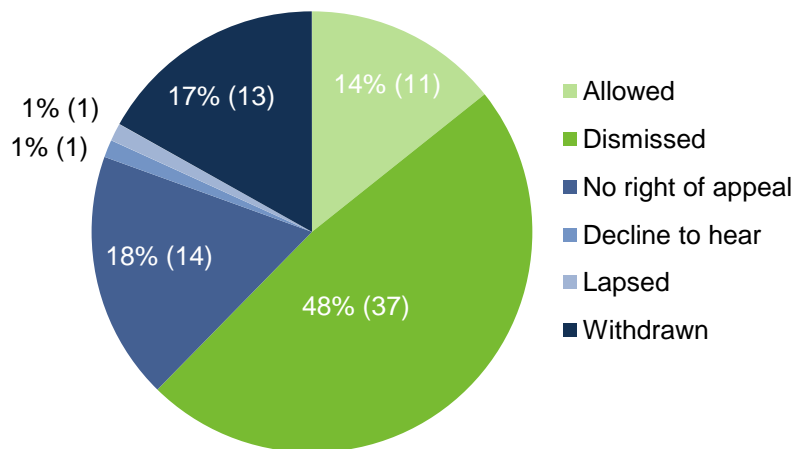
Fitzgerald Inquiry documents ([Parliamentary Crime and Misconduct Committee inquiry and report](#)), the [administrative review of the CMC conducted by Mr Mick Keelty AO APM](#), and the [Queensland Commission of Audit \(QCoA\)](#), recommendations 139-141.

Part C: Public service appeals data 2013-14

Public service appeals received and finalised 2013-14

Of the 96 appeals received between 2013-14, 77 appeals were received and finalised within that period, with 19 carried over to 2014-15. Figure 2 depicts the outcomes of appeals received and finalised in 2013-14.

Figure 2: Public service appeals received and finalised 2013-14



Of the 77 appeals received and finalised in 2013-14, 11 (14 per cent) were allowed. The remaining 86 appeals did not proceed to hearing because:

- the appeal was dismissed – 37 appeals (48 per cent)
- there was no right of appeal – 14 appeals (18 per cent)
- the appeal was withdrawn – 13 appeals (17 per cent)
- the appeal was declined to be heard – one appeal (1 per cent)
- the appeal lapsed – one appeal (1 per cent).

Table 2 depicts the number of appeals received and finalised in 2013-14, by agency and finalisation outcome.

Table 3 sets out the appeals received and finalised in 2013-14, by agency and appeal type.

Table 2: Appeals received and finalised 2013-14 by agency and finalisation outcome

Agency	Total received and finalised	Allowed	Dismissed	No right of appeal	Decline to hear	Lapsed	Withdrawn
Cwlt [#]	1	0	0	1	0	0	0
DAFF	3	1	1	0	0	1	0
DCCSDS	5	1	2	2	0	0	0
DETE	27 [*]	6	15	4	0	0	2
DHPW	3	0	1	1	0	0	1
DJAG	2	0	2	0	0	0	0
DNRM	3	1	0	1	0	0	1
DTMR	1	0	1	0	0	0	0
QFES	1	0	1	0	0	0	0
Qld Health	27	2	11	5	1	0	8
QTT	4	0	3	0	0	0	1
Totals	77	11	37	14	1	1	13

Notes/

Commonwealth public servants have no right of appeal under the Act

* Almost half of the of DETE appeals relate to required transfer decisions

1. The agency listings reflect the administrative arrangements in place as at 30 June 2014.
2. One Qld Health matter was subject to judicial review.

Table 3: Appeals received and finalised 2013-14 by agency and appeal type

Agency	Promotion							Discipline						
	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn
DAFF	0	0	0	0	0	0	0	2	1	1	0	0	0	0
DCCSDS	1	0	1	0	0	0	0	2	1	0	1	0	0	0
DETE	1	0	1	0	0	0	0	8	2	5	0	0	0	1
DHPW	0	0	0	0	0	0	0	1	0	1	0	0	0	0
DJAG	2	0	2	0	0	0	0	0	0	0	0	0	0	0
DNRM	0	0	0	0	0	0	0	3	1	0	1	0	0	1
DTMR	1	0	1	0	0	0	0	0	0	0	0	0	0	0
QFES	1	0	1	0	0	0	0	0	0	0	0	0	0	0
Qld Health	6	1	1	3	0	0	1	11	1	6	1	0	0	3
QTT	1	0	1	0	0	0	0	3	0	2	0	0	0	1
Totals	13	1	8	3	0	0	1	30	6	15	3	0	0	6

Agency	Decision - Temporary Employment							Suspension without pay						
	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn
DAFF	1	0	0	0	0	1	0	0	0	0	0	0	0	0
DCCSDS	0	0	0	0	0	0	0	1	0	1	0	0	0	0
DETE	1	0	1	0	0	0	0	0	0	0	0	0	0	0
DHPW	1	0	0	1	0	0	0	0	0	0	0	0	0	0
DJAG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DNRM	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DTMR	0	0	0	0	0	0	0	0	0	0	0	0	0	0
QFES	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Qld Health	0	0	0	0	0	0	0	2	0	2	0	0	0	0
QTT	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Totals	3	0	1	1	0	1	0	3	0	3	0	0	0	0

Table 3: Appeals received and finalised 2013-14 by agency and appeal type (continued)

Agency	Appeal under another Act							Decision - Complaint or grievance outcome						
	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn
DAFF	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DCCSDS	0	0	0	0	0	0	0	1	0	0	1	0	0	0
DETE	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DHPW	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DJAG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DNRM	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DTMR	0	0	0	0	0	0	0	0	0	0	0	0	0	0
QFES	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Qld Health	2	0	0	0	1	0	1	2	0	0	0	0	0	2
QTT	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Totals	2	0	0	0	1	0	1	3	0	0	1	0	0	2

Agency	Decision under a directive						
	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn
DAFF	0	0	0	0	0	0	0
DCCSDS	0	0	0	0	0	0	0
DETE	0	0	0	0	0	0	0
DHPW	0	0	0	0	0	0	0
DJAG	0	0	0	0	0	0	0
DNRM	0	0	0	0	0	0	0
DTMR	0	0	0	0	0	0	0
QFES	0	0	0	0	0	0	0
Qld Health	3	0	1	1	0	0	1
QTT	0	0	0	0	0	0	0
Totals	3	0	1	1	0	0	1

Table 3: Appeals received and finalised 2013-14 by agency and appeal type (continued)

Agency	Decision - Required transfer							Decision - Requested transfer						
	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn
DETE	13	3	9	0	0	0	1	4	0	0	4	0	0	0
DHPW	1	0	0	0	0	0	1	0	0	0	0	0	0	0
Totals	14	0	0	0	0	0	2	4	0	0	4	0	0	0

Agency	Stay application						
	Total received and finalised	Allowed	Dismissed	No right of appeal	Declined to hear	Lapsed	Withdrawn
Qld Health	1	0	1	0	0	0	0
Totals	1	0	1	0	0	0	0

Note/

One required transfer appeal lodged by a Commonwealth public service employee has been excluded.

Glossary and abbreviations

CaPE	Conduct and Performance Excellence service, PSC
CCE Directive	A directive made by the Commission Chief Executive under the <i>Public Service Act 2008</i> , section 53.
Cwlth	Commonwealth public service
DCCSDS	Department of Communities, Child Safety and Disability Services
DAFF	Department of Agriculture, Fisheries and Forestry
DETE	Department of Education, Training and Employment
DJAG	Department of Justice and Attorney-General
DHPW	Department of Housing and Public Works
DNRM	Department of Natural Resources and Mines
DTMR	Department of Transport and Main Roads
HSS	Hospital and Health Service
Qld Health	Queensland Health
QIRC	Queensland Industrial Relations Commission
QFES	Queensland Fire and Emergency Services
QTT	Queensland Treasury and Trade
PSC	Public Service Commission
PSA	<i>Public Service Act 2008</i>