

Reworking merit: Changes in approaches to merit in Queensland public service employment 1988 to 2000

*Linda Colley
Griffith University*

ABSTRACT

The image of public servants is often poor, and many are perceived as having little real merit, despite merit being the ostensible cornerstone of public employment. This paper demonstrates that the merit principle was not implemented as originally intended. It waxes and wanes according to social circumstances. In recent decades, the merit principle has been subject to extensive redefinition and has been subordinated to the desire for greater political control of public services, and pursuit of “responsiveness”.

Introduction

Public services play an essential role in society, and every citizen uses them. Public servants have traditionally been the principal means of implementing the political will, through policy development and implementation. They enjoyed a unique set of employment relations, designed for the political environment. Yet their image is often poor, fed by television programmes such as *Yes Minister*. It is often assumed that they have little real merit, despite merit being the ostensible cornerstone of the public employment model. In recent decades, dissatisfaction with public services led to the reform of public employment in all Australian jurisdictions, with far-reaching consequences for concepts such as the merit principle.

This paper explores how the merit principle has been reworked. It begins by setting the context, with identification of the original intention of the merit principle, and this serves as a benchmark from which to consider subsequent developments. The paper then briefly describes the general pressures for reform of public employment. The main body of the paper analyses the Queensland public service employment framework since 1988 in regard to merit in recruitment. The paper argues that although merit was intended to be the cornerstone of public service employment, it waxed and waned and was often resisted in practice. In the earlier period, it was subordinated to social values and circumstances (such as preference for male employment and war veterans). In more recent times, it was redefined and subordinated to a desire for greater political control of public services, and pursuit of “responsiveness”.

The evolution of the merit principle in public employment

In the 1850s, Britain developed a career service system of employment to address problems of inefficiency and politicisation. The landmark Northcote-Trevelyan Report (1853:1) noted that government could not be carried on without the aid:

of an efficient body of permanent officers, occupying a position duly subordinate to that of the Ministers who are directly responsible to the Crown and to Parliament, yet possessing sufficient **independence, character, ability, and experience** to be able to advise, assist, and to some extent, influence, those who are from time to time set over them.

Notwithstanding this important role, the civil service was found deficient. Department heads often made appointments to junior posts in order to repay personal or political claims, without considering merit. When senior vacancies arose, this internal pool of clerks was often considered unsuitable and a “stranger” would be appointed. The Report accepted that external appointments might be required in some instances, but that in practice many external appointees had no greater merit than internal candidates (Northcote and Trevelyan 1853).

Northcote and Trevelyan (1853) recommended careful selection of young people according to their capacity and education. Examinations were to be run by an independent board, open to all people, and secure candidates of general ability who could work anywhere. Only those who passed the examination could be appointed, except where warranted by a person's pre-eminence in the field. Under the career service model, a politically neutral public service was recruited on merit, and given tenure to encourage frank and fearless advice and protect it from electoral whims. This enabled it to serve a government of any political persuasion. Australia adopted and adapted the British career service model into its state and federal public services.

An earlier paper outlined how these admirable intentions were poorly implemented. While the early legislation supported open competitive merit, it was undermined by regulations and practices. Rather than identify the most meritorious candidates, these recruitment processes first identified a socially acceptable group that met gender, age, health, class and character restrictions, and then set comparatively low benchmarks for merit amongst that group. Various restrictions were placed on women entering the service, and as a result, there were lower entrance standards for men than women. There was a strong preparedness to moderate merit to meet other circumstances including social values (such as preference for male employees and male breadwinner notions), geographic considerations (such as preference for Queensland school-leavers), or social requirements (such as preference to returned soldiers).

Strict legislative processes were not only undermined by policies and practices, but also by large loopholes that provided exemptions to merit. The issue of special certificates, to bypass entry through examination, was generally in excess of one-tenth and sometimes as high as one-third of all new entrants. The extent to which these loopholes were used depended on the strength of the central personnel agency and the preparedness of the government to use them. Merit processes were also circumvented through temporary employment, which did not require the same stringent merit selection processes as permanent employment. Temporary employment was undertaken at departmental rather than central level, and used so extensively at various times that schemes were enacted to convert these temporary employees to permanent status. This contradicted the convention of open competitive merit in order to gain the most efficient workforce, and had consequences for the quality of employees and services.

Historical factors (of corruption and politicisation) had led to the development of civil services based on negative protections rather than positive duties and systems (Hecló 1977). Public services often had insular, internal labour markets (Gardner 1993:137), and conventions such as merit had been "re-interpreted" in inflexible and inefficient ways. It is perhaps little wonder that, by the 1960s and 1970s, politicians sought reform.

Since the 1980s, governments have responded to economic pressures, as well as ideological pressures regarding the size and role of government. Competitive markets were seen as the answer to curbing the provider power and unresponsiveness of certain public servants. The first wave of reform was managerialism, which pursued increased productivity through better management. The second wave, "contractualism", went beyond importing private sector business practices, to suggest that governments should set policy direction, and allow all services to be delivered by the private sector through competitive contracting. This allowed the public sector to become a purchaser rather than a supplier, with no assumption of public ownership or permanent public employment, and no requirement for large government agencies (Considine 1988; Considine and Painter 1997:5; Davis 1997:215; Davis 1998:24; Pollitt 1990; Weller 1996). Queensland focused largely on managerial principles.

These reforms exacerbated tensions in the broader Westminster system, and the traditional accountability of the public service, through the Minister to Parliament. The importance of Parliament had been declining, due to executive dominance of Parliament, the increasing authority of Cabinet, and party discipline (Coaldrake 1989:55-57). Executive dominance of Parliament resulted in an inherent tension, where the government was dependent upon the public service for implementation of the political will, but the public service retained a degree of independence from government. The traditional model of responsible government displaced administrative accountability, which could lead to an unresponsive bureaucracy (Wanna 1992). This longstanding tension came into sharper focus in the 1960s and 1970s. The challenge was to find the balance between legitimate political leadership of the public service and unwarranted intrusion into its management (Smith and Corbett 1999).

The reform of public administration was accompanied by extensive changes to traditional public sector employment relations. Ironically, although the career service model had been introduced in the 19th century *to enhance efficiency and flexibility* and remove patronage, by the late 20th century it was perceived as being a *barrier to efficiency and flexibility* in public administration. The *institutions* that governed public sector employment were weakened through the abolition of strong central personnel agencies and transfer of personnel decisions to potentially more partisan hands (Alford 1993:1-5). There were also changes to most *procedural* and *substantive* aspects of public sector employment relations. Public employment is now an uncomfortable hybrid of old and new practices (Gardner 1993).

Traditionally, public servants were to be subordinate to Ministers, loyally implement the policies of the party in power, and only impose their views to the extent of providing full and frank advice (Williams 1985:47). This served the long-term national interest and counter-balanced the political masters' tendency to base decisions on short-term gains (Smith and Corbett 1999). The central determination of merit was intended to insulate public servants from political pressure and ensure their independence to do this. Reforms led to devolution of the creation of jobs and recruitment to departments (Alford 1993:1), reducing public servants to employees of the chief executive or Minister, and providing opportunities for more partisan definition of merit. This reduces the potential quality of advice. Ultimately the public service has a responsibility that is institutional and enduring no matter who is in charge, and is available for use by, but not at the absolute disposal of, any political group (Hecl 1977:42).

By the 1990s, many public services were beset with problems of politicisation, fragmentation, employee turnover, excessive non-tenured employment, loss of corporate memory, and a lack of strategic oversight of employment (see sources in Colley 2001). There are distinct similarities between the current problems and those that occurred in the early 19th century prior to the introduction of the career service model. Given the important place of public services in Australian society, it is worth examining the changes to the cornerstone of public service employment – the merit principle – in more detail.”

The Queensland case study

The paper now considers how Queensland reformed the merit principle. It focuses on the employment framework in regard to merit in recruitment for administrative officers (ie. clerical rather than professional staff). This employment framework applied to public service departments and in some cases also applied to broader public sector agencies. Data is drawn from primary legislation and subordinate legislation (regulations), as well as parliamentary debates, annual reports, Commissions and Inquiries, and secondary sources. Table 1 provides a brief outline of changes in government, personnel institution and legislation, to assist understand this period of rapid change. While earlier public service personnel institutions had often survived changes of government, in this period each new government implemented new institutional arrangements.

TABLE 1
Personnel institutions in the Queensland Public Service 1988-2000

<i>Period</i>	<i>Institution</i>	<i>Legislation</i>	<i>Govt</i>
1988-1989	Office of Public Service Personnel Management	Public Service Management and Employment Act 1988	National
1989-1996	Public Sector Management Commission		Labor
1996-1998	Office of the Public Service	Public Service Act 1996	Coalition
1998-2000	Office of the Public Service Commissioner		Labor

Office of Public Service Personnel Management 1988-1989

A major review of the Queensland public service was undertaken in 1987, in the latter stages of the long reign of the National Party Government, and the resulting Savage Report led to new institutional and legislative arrangements that weakened the career service conventions. The new *Public Service Management and Employment Act 1988* (PSME Act) diverted power from the central personnel agency to departments, in accordance with the Savage recommendations (Savage 1987:46). The PSME Act sought to provide “greater autonomy and responsibility to Ministers and chief executives” and achieve a public service that was “more flexible and more responsive to community demands” (QPD 19 April 1988:5983).

The legislation appeared to create 27 private-enterprise style departments (QPD 21 April 1988:6280), which fragmented the service. The new personnel institution, the Office of Public Service Personnel Management (OPSPM) established a minimalist framework, within which departments could make their own decisions, and one union official noted “departments were doing whatever they wanted to” (Merrell 2004). The transfer of the OPSPM to Treasury in December 1987 (Premier Ahern 1988:6) replaced the career focus with an economic focus.

The OPSPM continued to assess merit for base grade positions, through continued central examinations (PSME Act 1988, s.36(1)(a)), but with a changed process. The OPSPM would identify three applicants from the order of merit list for a department to interview, and if none were suitable the department could obtain further lists until an appointment was made (Premier Ahern 1988:10; Savage 1987:Rec 51). This allowed departments to go beyond the accepted objective definition of merit for base-grade positions, being examination results, and make appointments on other considerations including discrimination or patronage.

Other merit decisions were placed directly under political control. The Governor-in-Council could confer the power of appointment on the Minister of the department involved (PSME Act 1998 ss.16,17). Senior appointments were to be recommended by department heads and approved by the Minister of the department (Premier Ahern 1988:8; Savage 1987:Rec 46). While Ministers were undoubtedly consulted upon such decisions in the past, this gave politicians formal authority to make the final decision.

The OPSPM reforms were not consistent with the traditional conventions. The period from 1987 to 1989 was over-shadowed by a major corruption Inquiry into the police force. The Inquiry was heavily critical of the existing recruitment process, which allowed merit to be ignored and personal or political loyalties rewarded. There was little or no advertising of vacancies, subjective judging of merit, and an over-emphasis on base-grade recruitment with little lateral recruitment to other levels (Fitzgerald 1989:130-132,246-248).

Public Sector Management Commission 1990-1996

The Goss Labor Government was elected in 1989, on a platform of administrative, electoral and Parliamentary reform (Goss 1989), consistent with the Fitzgerald Inquiry recommendations. In contrast to the OPSPM, the Public Sector Management Commission (PSMC) was a strong central agency, committed to principles of merit and political neutrality.

Merit was an important focus for the Goss Government. Labor had promised public servants that ‘talent and performance, not cronyism or seniority, will determine their career’ (Goss 1989). The PSMC sought to break down the “closed shop” which had been subject to little external recruitment, given there was no advertising of vacancies (Coaldrake 1991:50). The new *Standard for Recruitment and Selection* clarified that merit was to be the basis of all phases of the process. Merit selection processes were to be fairer and more transparent and give everyone the opportunity to demonstrate their merit – all vacancies were to be advertised to ensure that all interested candidates could apply, position descriptions would specify the selection criteria against which merit would be judged, and structured interviews would ensure equal opportunity to respond to those criteria (PSMC 1991a). Merit and equity were strongly linked, and the *Equal Opportunity in Public Employment (EOPE) Act 1992* was part of the broader trend toward reducing political and administrative patronage. Merit was to be operationalised in a way that removed considerations of irrelevant qualifications or prejudicial attitudes that favoured traditional incumbents. Merit was broadly defined as the skills, knowledge, abilities and qualifications, or the potential to develop these (Burton 1993).

The assessment of merit in base-grade positions was changed. The traditional “definition” of merit as educational qualifications was replaced with a new system that emphasised clerical aptitude and vocational skills. Statewide entrance testing was retained (DEVETIR 1990:19), but with a more practical than academic focus.

The opening of *all positions* to external recruitment meant that merit was also being assessed in new ways at higher levels. Queenslanders were accustomed to seniority and length of service being the indicators of merit, on the assumption that experience equated to knowledge and skills. Therefore there was a great deal of suspicion that merit was a code for other agendas, such as a focus on qualifications. PSMC representatives were staggered by the resistance to external recruitment and the entrenched nature of seniority. Some employees suspected that merit was a cover to legitimise a preference for external appointments (Coaldrake 1992, Davis 2004), and public service unions criticised the perceived influx of academics and interstate employees as cronyism and “jobs for the boys” (QSSU Mar 1991:4; Apr 1991:3; Aug 1991:9; Nov 1991:6; Dec 1991:3). The PSMC Chair suggested that, while “some very good people who had come through the system”, Queensland needed an injection of outside ideas, and about one-quarter of senior jobs going to outsiders “seemed to be about right at that time” (Coaldrake 2004). It was not surprising that a public sector so unused to change would be suspicious of re-examining what merit meant (Coaldrake 1991).

A review of recruitment after 12 months revealed that the PSMC had over-estimated the base from which it started, and the lack of understanding about open, transparent merit processes. Some departments sought refuge behind the words, at the cost of common sense, and the PSMC had to emphasise that merit was about fair treatment and outcomes rather than adherence to a process (Coaldrake 1992:214-215; Hede 1993:96, PSMC 1991b:7,11).

In the traditional period before 1988, temporary employment provided an opportunity for departments to dispense patronage and find jobs for “friends”. The PSMC recruitment process changed this. All temporary positions in excess of twelve months were subject to full merit selection processes, including advertising. For shorter term temporary positions, merit was balanced with expediency: medium-term temporary positions for 3-12 months were subject to internal competition; while positions of less than three months could be filled to meet operational convenience (PSMC 1991a). Departments did not embrace this change, and medium-term temporary employment was centralised in 1992 (DEVETIR 1992:96). This closed one of the loopholes that had existed for 130 years and reduced opportunities to dispense patronage – perhaps not surprisingly it was heavily resented by agencies.

The Goss Government merit processes differed in some respects from the Northcote-Trevelyan model of primarily base-grade recruitment of school-leavers through objective examination results, but the principles underpinning the Goss reforms were similar. Base-grade processes remained subject to some form of competitive testing and order of merit. Other selection processes accommodated lateral recruitment through more subjective processes, but were designed to improve transparency, provide more open competition, and identify the most efficient officer for the job. The Goss merit reforms were one of the most significant culture changes in the history of Queensland public employment.

From 1990, a Senior Executive Service (SES) was created, and subject to separate recruitment and selection processes, but still with a strong emphasis on principles of merit and equity (Public Sector Legislation Amendment Act 1991). Merit was arguably redefined for senior executives. SES schemes stem from assumptions that management functions in the public sector are similar (Conroy and Blackmur 1991:235), which shifted the focus from *merit for a particular job* to the more subjective *merit in generic management skills*. Many people claimed politicisation, although the PSMC was generally satisfied with the quality of appointments (Coaldrake 2004; Davis 2004). However, politicisation can be a disguised aspect of managerialism, which forces public officials from an accountability ‘based on “public administrative ethics” to a much more “politically responsive” position based on greater individual calculation and contractual relationships’. This can lead to partisanship, as officers are increasingly selected for their alignment to a minister or prevailing political values (Wanna 1992:77). The separation of the SES from the general bureaucracy resulted in greater dependence on political masters (Conroy and Blackmur 1991:238).

There was also potential for political interference in the *selection of chief executives*, as well as in the *creation of chief executive vacancies*. Some ministers realised that Directors-General could be moved on, and perhaps made less effort to get along with them. Davis (2004) suggested that the experience in NSW demonstrated that “once ministers get control of the process, it is a disaster, every new minister thinks they should pick their own DG, so the balance has shifted too far”.

Overall, the Goss Government implemented more open and effective merit processes, particularly at lower levels of the public service.

Office of the Public Service 1996-1998

The new Borbidge Coalition Government promised to reverse the central control of the Goss Government, and weakened the career service conventions through the new *Public Service Act 1996*. This Act conferred broader responsibilities on chief executives, including control over appointments and secondments (ss51.2, 66, 67, 68). Borbidge criticised the Goss Government processes as having moved from being one “based significantly on seniority to one almost entirely based on academic qualifications” which resulted in experienced public servants being turned down in favour of others who “looked good on paper” (QPD 8 August 1996:2241). Borbidge then proceeded to weaken merit processes in several ways.

Merit was defined for the first time in the principal legislation. However this definition allowed for more restrictive and subjective approaches. The PSMC criteria for determining relative merit – being abilities, aptitude, skills, qualifications, and knowledge – were supplemented by two additional criteria of “experience” and “personal qualities” (1996 Act s.78). The Government believed that the term experience demonstrated its commitment to an employee’s track record, but there was a danger that it would be interpreted restrictively to mean seniority or Queensland experience. “Personal qualities” could be misused, either to find people with similar political views and persecute those with different views, or to discriminate against irrelevant qualities (QPD 8 August 1996:2241; 11 October 1996:3393).

The extensive PSMC recruitment framework was condensed into eleven brief principles. It also contained a loophole that the Public Service Commissioner could exempt specific jobs or agencies from these principles, and separate directives outlined exemptions from merit appointments (OPS 1996, 1997b, OPSC 1998a). Some exemptions were relatively uncontentious: ministerial appointments had always been political rather than merit-based. However, other exemptions covered numerous undefined circumstances, and the potential to severely undermine the merit principle was soon realised. In 1997, the Commissioner approved a short-term scheme to convert certain temporary employees to tenured status, and an ongoing scheme to convert base-grade employees to tenured status (OPS 1997a; OPS 1997d). These conversion processes provided enormous scope for patronage, and did not aim for the highest quality permanent workforce. Central base-grade recruitment was ceased, in light of departments gaining increasing control over personnel matters. Departments had the option to use an outsourcing agreement for *base-grade* recruitment or to establish their own process (OPSC 1999a). The traditional approach of defining merit for school-leavers in terms of educational qualifications or central examinations had been waning for several years, and this was a final severing of the tradition.

The extensive changes to merit processes were claimed to remedy the impractical adherence to principle of the PSMC. The changes generally favoured agency discretion over central policy direction, and increased the scope to evade merit in various situations.

Merit was weakened in SES appointments. While the PSMC had established central management of SES selection processes to protect against politicisation (PSMC 1994), Borbidge devolved SES appointment decisions to chief executives in departments (1996 Act s.60). The protection that selection committees comprise at least one member acting as an OPS representative (OPS 1997c) was undermined by the lack of independence of the OPS, and the absence of central management of other aspects of the process. Merit was further diluted by a provision that SES appointments did not have to be on merit if a tenured SES officer accepted a contract to perform substantially similar duties at a higher classification level (1996 Act 2.78{4}). This allowed promotions or reclassification without merit (QPD 11 October 1996:3393).

The introduction of contract appointments for SES officers (1996 Act s.62) allowed regular political and administrative interference in selection decisions. As a result 'nobody was prepared to give the Director-General bad news', and 'the capacity for internal debate at senior levels has significantly declined' (Scott 2004).

One executive, dismissed upon the election of the Borbidge Government, lodged a complaint with the Anti-Discrimination Commission of discrimination on the grounds of political belief (QPD 26 November 1996:4266). However the court supported the importance of compatibility and alignment, and changed the approach to merit. Head (2004) noted that this requirement to get along with the minister made it difficult to operate a neutral merit test without some political considerations. This gave credence to applying different interpretations of merit and tenure to the SES group.

Office of the Public Service Commissioner 1998-2000

The election of the Beattie Labor Government led to a change in the personnel institution to the Office of the Public Service Commissioner (OPSC), but few changes to merit processes. The OPS directives continued to apply, and the OPSC also approved 'closed merit schemes' under the exemptions directive (OPSC 1999b).

Base-grade and temporary recruitment processes were reviewed twice in this period, as unions expressed dissatisfaction with the Borbidge changes and sought resumption of centralised processes. Both reviews acknowledged that there appeared to be a questionable application of the merit principle, with agencies recruiting from unsolicited applications, and temporary and casual employees becoming a source of permanent base-grade employees. Recruitment was much less open and competitive than desired. However departments were not interested in re-centralising recruitment decisions, and no changes were made (OPSC 1999a; DIR 2000). Overall, the Beattie Government did not restore the PSMC approach to merit.

Merit consideration for chief executives was subject to two major issues under the Beattie Government. The Premier rejected Borbidge's Private Members Bill to limit chief executive contracts to the term of government. Such an approach resulted in political appointments that effectively defined merit as specific to a particular government, and did not give an opportunity to prove skills or impartiality to a new Government (QPD 5 August 1998:1608-1609; 6 August 1998:1705; 16 September 1998 2276-2277). Merit was weakened when, almost immediately upon election, the Premier obtained the power to exempt chief executive positions from mandatory requirements regarding advertising and establishment of selection panels (OPSC 1998b, 1998c). The Premier made several CEO appointments without due process, where he claimed that the appointees had been through a merit selection process for a senior position previously in Queensland or elsewhere (QPD 5 August 1998:1608-1609; 16 September 2256). While the majority of people who benefited were those who had been sacked in 1996 and were being invited back (Head 2004), this process allowed ministerial interference in selection decisions, as the Premier had sole discretion.

Conclusion

Merit was intended to be the cornerstone of public employment, designed to enhance efficiency, and remove the inefficiency and corruption that occurred under patronage systems. A previous paper outlined how merit was poorly implemented in the traditional period between 1859 and 1959. This paper demonstrates that commitment to merit in recruitment waxed and waned in the managerial period from 1988.

The 1988 legislation generally weakened merit. Appointment decisions were placed directly under political control, and the Fitzgerald Inquiry criticised the National Government's political control of the public service. The Goss Government reforms re-emphasised the merit principle. New employment standards introduced competitive merit principles, equitable and transparent procedures, and valid selection techniques. The PSMC also closed longstanding loopholes in temporary employment processes. The PSMC's merit selection and protection processes were unpopular, and the PSMC's failed to monitor whether agencies adhered to them.

The merit principle was weakened from this time forward, as the Borbidge Government replaced the detailed standards with brief directives that allowed agencies to “interpret” the principles, and provided extensive exemptions from the merit principle. The 1998 Beattie Government made minimal change to the employment framework.

There was a strong trend in the contemporary period toward streamlining of merit processes in the name of efficiency. Interestingly, merit was intended to recruit the most efficient employees and so was largely an economic consideration, in contrast to patronage decisions that are based on more personal considerations. However, a short-term focus on *process efficiency* rather than the *outcome efficiency* to be derived from meritorious decisions resulted in merit being devolved to agencies, with little or no monitoring of their outcomes. Notwithstanding these detractions, merit for females was enhanced in this period.

Interestingly, many of the criticisms of public service employment, such as seniority and discrimination, did not stem from the original model nor from the legislation, but from the subsequent rules and practices. The devil was in the implementation rather than the principle, in which case reforms to the principle may have misguidedly thrown the baby out with the bath water. It was necessary to address the non-competitive seniority systems that had evolved. But rather than remedy this through implementation of the original principle of *competitive internal promotion*, Goss resorted to *completely external recruitment*. This removed many of the performance motivators that were built into the existing model.

The Queensland case study demonstrates a clear correlation between commitment to merit and political party. The weakening of merit occurred initially under a conservative government, was rejuvenated under the Goss Labor Government, and then weakened again under the subsequent conservative Borbidge Government. While political parties are entitled to have confidence in the ability of a public service to adapt to their programs, the current arrangements are too focused on responsiveness, with too little emphasis on the traditional benefits of a stable career public service able to serve successive governments. Merit is increasingly linked to responsiveness rather than general capacity, and responsiveness to a government’s values is increasingly and unnecessarily linked to alignment to a government. Changes of government tend to treat everyone as a political appointee, rather than recognise the value of career public servants, who deserve tenure or at least an opportunity to prove their worth to a new government. This “disposability” and employment “precipice” does not foster ethical and courageous action by public servants. The re-strengthening of merit may require significant changes of mindset, to value the strengths of a tenured, non-partisan public service, and perhaps creative solutions such as bipartisan support for key appointments.

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