



FAQs - Merit pools/lists

1. Is it mandatory to share a merit pool/list with other agencies?

Agencies are required to provide access to merit pools¹ created for all **SES vacancies** and **centrally coordinated entry-level programs**. Access to merit pools for other vacancies is at the discretion of the advertising agency. The advertising agency can continue to access shared merit pools for similar vacancies within their own agency.

Where a suitable candidate has advised that they do not wish to be considered by other agencies, their details should not be shared.

Legislation: sections 9 & 19 of the *Australian Public Service Commissioner's Directions 2016*; and Australian Privacy Principle 6.

2. Do merit pools for graduates have to be shared?

Merit pools created from a centrally coordinated graduate program must be shared if requested by another agency. Centrally coordinated programs include any recruitment exercise undertaken to fill similar jobs across multiple agencies. For example, an Indigenous Graduate Program for graduate roles across the APS. Similar jobs include designated graduate roles at the same classification; either the training classification 'Graduate APS' or an APS level classification used for that purpose, such as APS Level 3 or 4.

Access to a graduate merit pool that is not part of a centrally coordinated recruitment exercise is at the discretion of the advertising agency. Agencies are strongly encouraged to share all graduate merit pools.

Legislation: sections 9 & 19 of the *Australian Public Service Commissioner's Directions 2016*.

3. Do merit pools for other entry-level programs (cadets, trainees) have to be shared?

Merit pools created from any centrally coordinated entry-level program must be shared if requested by another agency. Centrally coordinated programs include any recruitment exercise for entry-level positions undertaken to fill similar jobs across multiple agencies. Similar jobs include designated training roles with similar duties at the same classification; either a training classification or an APS level classification used for the purpose, such as APS Level 1 or 2.

Access to an entry-level merit list that is not part of a centrally coordinated recruitment exercise is at the discretion of the advertising agency.

4. Can an agency keep the top three ranked candidates for potential future vacancies and share the remainder with other agencies?

No. Offering engagement or promotion to candidates ranked lower than the top candidates on the order of merit would be inconsistent with the legislated merit provisions.

¹ 'Merit pool' is used throughout the document and refers to both merit pools and/or merit lists.

If an agency provides access to a **ranked order of merit** to another agency, candidates can only be offered jobs in the order they are ranked.

If the candidates have accepted roles but have not yet commenced duty, the remaining candidates can then be considered for a similar vacancy.

Legislation: section 10A of the *Public Service Act 1999*; and section 19 of the *Australian Public Service Commissioner's Directions 2016*.

5. Can an agency select lower-ranked candidates before higher-ranked ones?

If it's a ranked merit list, the list must be utilised in that order only.

If it is a merit pool where candidates are grouped, the agency could select anyone in the highest category pool first. In this second instance, higher categories must be exhausted before moving to the next (i.e. you must exhaust a 'highly suitable' pool before moving to the 'suitable' pool).

Legislation: section 10A of the *Public Service Act 1999*.

6. Can an agency engage a particular candidate from another agency's merit pool?

The APS Redeployment Register must be checked first. Then a comparative assessment should be undertaken of candidates in the highest rated merit pool. If this candidate is in the highest rated pool and is assessed by the agency as the most suitable candidate for the particular vacancy, the agency may engage the individual without undertaking a full merit selection process.

If the merit list has candidates **ranked in order of merit (a list)**, the order of the merit list must be followed when filling any similar vacancies. Where the preferred candidate is ranked lower than others, the agency are unable to engage the individual.

If the agency believes that a particular skill-set or experience makes that candidate the most suitable person for the agency vacancy over higher-rated candidates, it is likely that the duties of the vacancies are not in fact similar and use of the other agency's merit list is not appropriate.

If the vacancy is not at the SES level or a centrally coordinated entry-level program, agencies must seek the agreement of the original recruiting agency and the individual candidate before you proceed.

Legislation: section 10A of the *Public Service Act 1999*; and sections 9 & 19 of the *Australian Public Service Commissioner's Directions 2016*.

7. A merit-pooled candidate has opted out of consideration for similar roles in other agencies. What does this mean for the merit pool?

The individual retains their place in the merit pool for the original agency and can still be considered for similar jobs in that agency. However, their name and details are to be withheld when granting other agencies access to the merit list. This means that another agency can make a job offer to the next most suitable candidate on the merit list.

A decision to opt out of a shared merit pool will not affect the application of merit for determining that the person is suitable for the role they originally applied for, or for similar vacancies in the original agency. It simply means that where other agencies wish to access the merit pool, that individual's details will not be provided.

Legislation: section 10A of the *Public Service Act 1999*; and sections 9 & 19 of the *Australian Public Service Commissioner's Directions 2016*.

8. Do all candidates rated as suitable for a vacancy by the selection panel and delegate have to be placed in the merit pool?

To meet the merit requirements provided in the Act and Directions, all candidates assessed as suitable following a competitive selection process would usually be included in any merit pool created.

Agencies are not required to create a merit pool following a selection process or to use an existing merit pool to fill a vacancy—they may choose to re-advertise. There may be fair, transparent and defensible reasons for not including a candidate assessed as suitable in a merit pool where one is created.

In limited circumstances it might be appropriate to remove a candidate from a merit pool after they have been assessed as suitable. For example, where the candidate asks not to be considered for any further vacancies, or where they have become uncontactable or ineligible since the competitive assessment was completed.

The delegate may decide that where only a small number of vacancies are expected, and there is a significant distinction between the suitability of candidates, the merit pool will only include the top rated applicants. For example, only those rated as highly suitable or the first five ranked candidates in order of merit. If the merit pool is shared within the agency or with another agency, only the candidates approved by the delegate will be accessible.

Agencies are encouraged to contact the [APSC Employment Policy team](#) for advice should any of the above circumstances arise.

Legislation: section 10A of the *Public Service Act 1999*; and sections 9 & 19 of the *Australian Public Service Commissioner's Directions 2016*.

9. Can a merit list be extended or used after expiry?

If the merit pool has expired then it would not be consistent with the merit principles to make offers to candidates in that pool. Unless there is evidence of a written decision of an employment decision before the expiry of the pool, it would not be appropriate to make offers utilising that pool.

A suitable candidate may be engaged after expiry so long as there is evidence of the delegate having made a written decision to engage that person before the expiration of the merit pool (within 12 months of the date the vacancy was notified in the Gazette). If a written decision to engage the person was made before this time then an agency may be able to engage them as an employee.

The exact point when a decision is made will depend on what is recorded in writing. What needs to be recorded is a conclusion that a particular person is to be engaged or promoted. Such a conclusion can be recorded before the person indicates their acceptance of an offer of employment.

Legislation: section 10A of the *Public Service Act 1999*; and section 20(1)(a) of the *Australian Public Service Commissioner's Directions 2016*.

10. Can a graduate merit list be used to fill non-graduate positions?

Whether a merit list can be used to fill jobs in other agencies will depend on the criteria at section 9 of the *Australian Public Service Commissioner's Directions 2016* being satisfied.

The main concern would be how the 'graduate' vacancies were notified/advertised, if for instance the positions were notified as Graduate vacancies with the intent being that the successful applicants be engaged at the 'Graduate APS' training classification as set out in Schedule 2 of the Classification Rules, then the merit pool or list could not be used to engage at a substantive APS classification in Schedule 1. This is because it would not satisfy

section 9(b) of the Directions, as it would not be at the same classification and arguably it would not comprise similar duties.

If the vacancy was notified at a substantive classification or in a substantive broadband it would be at the discretion of the agency to determine if the criteria at section 9 of the Directions are satisfied.

Legislation: section 9 of the *Australian Public Service Commissioner's Directions 2016*.

11. Can an agency use a non-APS agency merit pool?

The strict requirements for fair, transparent and meritorious recruitment in the APS are such that it is not possible to utilise a merit pool created by a non-APS Commonwealth agency, as alignment to those requirements cannot be guaranteed.

An APS agency cannot use a non-APS Commonwealth agency's merit pool. The definition of 'similar vacancy' in section 9 of the Commissioner's Directions does not cover non-APS agencies. This is because 'Agency' as used in the Directions has the same meaning as in the *Public Service Act 1999* – that is, agencies engaging employees under the Public Service Act rather than any other enabling legislation.

There are limited circumstances for non-APS intelligence agencies and Parliamentary Service agencies where utilisation of merit pools is possible for movements at level. Please contact the [APSC Employment Policy team](#) to discuss in further detail if these situations occur at your agency.

12. What is a 'similar location'?

A 'similar location' is not specifically defined and is largely at the discretion of the decision maker/agency delegate. However, agencies should consider whether relocation would be required to undertake the job if it were to be filled in the different location(s).

Importantly, you should also consider whether advertising the vacancy as available in the different locations would attract a different field of applicants and the subsequent effect this would have on any resulting comparative assessment required by the principles of merit.

Legislation: section 10A of the *Public Service Act 1999*; and section 9 of the *Australian Public Service Commissioner's Directions 2016*.