

## 9. Procedural Review Process:

- 9.1. A procedural review is available for all substantive vacancies, that are advertised on or after 01 January 2017.
- 9.2. The Procedural Review process is applicable only for appointments to substantive vacancies, and can be based on process only:
  - 9.2.1. The only considerations are whether the Ministry's process was followed and whether that process is consistent with this guideline.
- 9.3. Within five working days of the successful applicant accepting the provisional appointment, all unsuccessful applicants will be notified in writing.
  - 9.3.1. Notification must include advice on whether they were considered to be suitable / unsuitable and the process for procedural review, if applicable;
  - 9.3.2. If suitable, that they will be held on the order of merit list pending any vacancy in the same position for the period approved by the Permanent Secretary.
- 9.4. A procedural review must be lodged with the Secretariat to the Public Service Commission, within five working days of notification that they were unsuccessful.
  - 9.4.1. Procedural Reviews must be lodged using the format provided by the Secretariat;
  - 9.4.2. Procedural Reviews must be accompanied by the documentation specified by the Secretariat.
- 9.5. Notification is deemed to be the date of the notification, unless the applicant can demonstrate that the notification was not sent to them on that date.
- 9.6. The Secretariat Manager will confirm whether a Procedural Review request is eligible. The Secretariat Manager may reject any procedural review, without further reference to the PSC Delegate if:
  - 9.6.1. The vacancy was not substantive;
  - 9.6.2. The appellant has not demonstrated that they applied by the closing date/time of the vacancy;
  - 9.6.3. The procedural review is not submitted within five working days of their notification that they were unsuccessful for the position;

- 9.6.4. The appellant was not eligible to be considered for the vacancy (where the eligibility criteria are advertised and lawful, such as under age 55 and Fijian Citizen);
- 9.6.5. The procedural review is not clearly based on process as per the advertised basis and format for procedural review;
- 9.6.6. The procedural review is in relation to a pool position and is not in accordance with the provisions for review of pool position (see S10).
- 9.7. The Secretariat Manager will advise the appellant if their procedural review is ineligible, within five working days of receipt of the procedural review.
- 9.8. The PSC Delegate will consider any eligible procedural review and make a recommendation within ten working days of receipt of the procedural review.
- 9.9. Recommended outcomes of a procedural review can be:
- 9.9.1. Appointment stands, process was in accordance with this Guideline;
- 9.9.2. Appeal upheld – Ministry to review and recommence the process from where it contravened this guideline.
- 9.10. The Delegate’s recommendations will be compiled into a report, for ratification by the Public Service Commission at its next meeting.
- 9.11. The appellant will be advised of the outcome of their procedural review and what further action will occur as a result.

## **10. Procedural review Provisions for Pool Positions**

- 10.1. Where a position is advertised for ongoing selections as part of a Pool process (in accordance with Section 6 of this guideline), the following additional provisions apply with regard to procedural review.
- 10.2. Applicants will be advised of the outcome of the application (whether suitable / unsuitable), within five days of the approval of the order of merit for the pool.
- 10.3. Procedural review based on process must be lodged within five days of notification of the outcome of the suitability of their application.

10.4. No subsequent procedural review may be lodged on the basis of process. As appointments are made from the pool, applicants may lodge a procedural review within five days of gazettal of an appointment, if they believe that the order of merit has not been followed.

10.4.1. These procedural reviews may only be based on a claim that the order of merit was not followed;

10.4.2. The procedural review will consider and review only whether the most meritorious applicant was appointed based on the order of merit;

10.4.3. The Process which determined the order of merit will not be reviewed in these circumstances.