Template letter: Request acknowledgement – employment at higher classification level

*The purpose of this template letter is to respond to a notice given by an employee acting in a higher classification role, about their eligibility for a conversion review under section 120 or 121 of the Public Sector Act 2022. It is essential to provide employees with fairness, including adequate time to make submissions about their conversion.* [Delete before sending letter]

[Address]

[Employee email address]

Dear [insert name],

I am writing in response to your request to employ you in the position at the higher classification level on a permanent basis for the role you are currently performing.

Firstly, I would like to acknowledge your service, and recognise the role you have performed in the [insert department, agency or entity’s name] over this period.

I will consider your request taking into account [[section 120](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034#sec.120) or [section 121](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034#sec.121)] of the *Public Sector Act 2022* (the Act) requirements and [Review of acting or secondment to higher classification level (Directive 03/23](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/review-of-acting-or-secondment-at-a-higher-classification-level-directive-0323)).

To be eligible for this review, you must have been acting at, or seconded to, the higher classification level in the same role for a continuous period of at least one year.

Where this requirement is met, I will consider if you are suitable to perform the role (as provided for in the directive), the genuine operational requirements of the [insert department, agency or entity’s name], and any reasons for previous decisions made during your engagement in the role.

Under the Act, a decision needs to be made within 28 days of your request date. I expect to make a decision within this timeframe.

However if a decision is not made, it will be taken that you will not be permanently employed in the position at the higher classification level on a permanent basis and that you will continue your existing [acting or secondment] employment arrangements.

You will be advised in writing of the outcome of your request. I have attached additional information at the end of this letter about the decision-making framework and appeal rights provided for under the Act and directive.

[Insert name] has been assigned as the contact for the review. Should you have any questions regarding this letter, please contact [insert name of contact] on [insert telephone number].

Yours sincerely

Decision maker

[Address]

**Additional information**

**Decision making framework**

This review is conducted in accordance with the [*Public Sector Act 2022*](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034)(the Act) and the [Review of acting or secondment at higher classification level (directive 03/23)](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/review-of-acting-or-secondment-at-a-higher-classification-level-directive-0323).

**Eligibility to request review – section 119 and 120**

A public service employee is eligible to request a review if:

* acting at, or seconded to ([see section 118](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034#sec.118)), a higher classification level in the public sector entity in which the employee is employed ([see section 119](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034#sec.119)(1)).
* acting at, or seconded to a higher classification level for a continuous period of at least 1 year (refer to clause 8 of the directive for meaning of continuous period)

A public service employee is not eligible to request review if:

* a casual employee
* a non-industrial instrument employee
* an employee who is acting at, or seconded to, a position that is ordinarily held by a non-industrial instrument employee.

**Decision making – section 120(3) and (4)**

The chief executive may decide to employ the employee in the position at the higher classification level on a permanent basis only if the chief executive considers the employee is suitable to perform the role. Clause 9 of the directive provides for the meaning of suitable.

In making the decision, the department’s chief executive must have regard to—

(a) the genuine operational requirements of the public sector entity; and

(b) the reasons for each decision previously made, or taken to have been made, under this section in relation to the person during the person’s continuous period of acting at, or secondment to, the higher classification level.

**Notice of decision – section 120(5)**

If the public sector entity’s chief executive decides to refuse the request, the chief executive must give the employee a notice stating—

(a) reasons for the decision

(b) the total continuous period for which the person has been acting at, or seconded to, the higher classification level in the public sector entity

(c) how many times the person’s acting arrangement or secondment has been extended

(d) each decision previously made, or taken to have been made, under this section in relation to the person during the person’s continuous period of acting at, or secondment to, the higher classification level.

**Appeal rights – section 131(1)(a)**

A public sector employee not permanently employed in the position at the higher classification level following a review after acting at, or being seconded to, the higher classification level for a continuous period of at least two years may appeal the decision not to permanently employ at the higher level. There is no appeal of a one-year review decision not to permanently employ at the higher level.

There are procedural requirements, including time limits, under the [*Industrial Relations Act 2016*](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-063)that you must fulfil in order to appeal this decision.Refer to the [Appeals directive 04/23](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/directives-policies-circulars-and-guidelines/appeals-directive-0423).

**Human rights**

Under the [*Human Rights Act 2019*](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005), decision makers have an obligation to act and make decisions in a way that is compatible with human rights, and when making a decision under this directive, to give proper consideration to human rights.

If you consider that a relevant human right has not been taken into account in making this decision, you may make a complaint using your agency’s process for making a human rights complaint. If you appeal a decision, you can include information about your human rights complaint.

Further information about your human rights is available: <https://www.qhrc.qld.gov.au/your-rights/human-rights-law>.