QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION:	*Thompson v State of Queensland (Queensland Police Service)* [2021] QIRC 057
PARTIES:	**Thompson, Louise Elizabeth** (Appellant) **v** **State of Queensland (Queensland Police Service)** (Respondent)
CASE NO:	PSA/2020/389
PROCEEDING:	Public Service Appeal – Conversion to higher classification level
DELIVERED ON:	18 February 2021
MEMBER:	Power IC
HEARD AT:	On the papers
OUTCOME:	**Pursuant to s 562C(1)(a) of the *Industrial Relations Act 2016* (Qld), the decision appealed against is confirmed.**
CATCHWORDS:	INDUSTRIAL LAW – PUBLIC SERVICE APPEAL – where the appellant was reviewed under s 149C of the *Public Service Act 2008* – where decision is deemed under s 149C(6) – consideration of 'genuine operational requirement'
LEGISLATION:	*Acts Interpretation Act 1954* (Qld), s 27B *Industrial Relations Act 2016* (Qld), ss 562B and 562C *Public Service Act 2008* (Qld), s 149C *Directive 13/20 Appointing a public service employee to a higher classification level*, cls 6 and 7
CASES:	*Brandy v Human Rights and Equal Opportunity Commission* [1995] HCA 10; (1995) 183 CLR 245 *Goodall v State of Queensland* (Unreported decision of the Supreme Court of Queensland,

Dalton J, 10 October 2018)

Morison v State of Queensland (Department of Child Safety, Youth and Women) [2020] QIRC 203

Reasons for Decision

[1] Ms Louise Elizabeth Thompson (the Appellant) is permanently employed as an AO3, Administration Officer, Cherbourg by the State of Queensland (Queensland Police Service) (the Respondent).

[2] On 3 January 2017, the Appellant commenced higher duties in a higher classification role as an AO4, Project Officer, Domestic Violence (DV) High Risk Team (HRT), Far North District, State Domestic, Family Violence and Vulnerable Persons Unit. On 1 January 2018, the Appellant's Project Officer role was upgraded to AO5, with an end date of 26 February 2021.

[3] The Appellant appeals a deemed decision by the Respondent of the refusal to appoint the Appellant to the higher classification role pursuant to s 194(1)(e)(iii) of the *Public Service Act 2008* (Qld) (the PS Act).

Appeal Principles

[4] The decision was made pursuant to s 149C(6) of the PS Act and *Directive 13/20 Appointing a public service employee to a higher classification level* (the Directive).

[5] Section 562B(1) of the *Industrial Relations Act 2016* (Qld) (the IR Act) provides that the section applies to a public service appeal made to the Commission. Section 562B(2) provides that the Commission must decide the appeal by reviewing the decision appealed against. Section 562B(3) provides that the purpose of the appeal is to decide whether the decision appealed against was fair and reasonable.

[6] The appeal must be decided by reviewing the decision appealed against.[1] Because the word 'review' has no settled meaning, it must take its meaning from the context in which it appears.[2] An appeal under chapter 11, part 6, division 4 of the IR Act is not by way of rehearing,[3] but involves a review of the decision arrived at and the decision-making process associated therewith.

[7] The stated purpose of such an appeal is to decide whether the decision appealed against was fair and reasonable.[4] The issue for determination is whether the decision to refuse the request to appoint the Appellant at the higher classification level was fair and reasonable in all of the circumstances.

---

[1] IR Act s 562B(2).
[2] *Brandy v Human Rights and Equal Opportunity Commission* [1995] HCA 10; (1995) 183 CLR 245, 261.
[3] *Goodall v State of Queensland* (Unreported decision of the Supreme Court of Queensland, Dalton J, 10 October 2018), 5 as to the former, equivalent provisions in s 201 of the PS Act.
[4] IR Act s 562B(3).

What decisions can the Industrial Commissioner make?

[8] In deciding this appeal, s 562C of the IR Act provides that the Industrial Commissioner may:

(a) confirm the decision appealed against; or

(b) set the decision aside and substitute another decision; or

(c) set the decision aside and return the issue to the decision-maker with a copy of the decision on appeal and any directions considered appropriate.

Relevant provisions of the PS Act and the Directive

[9] Section 149C of the PS Act provides:

> **149C Appointing public service employee acting in position at higher classification level**
>
> (1) This section applies in relation to a public service employee if the employee-
> (a) is seconded to, under section 120(1)(a), or is acting at, a higher classification level in the department in which the employee holds an appointment or is employed; and
> (b) has been seconded to or acting at the higher classification level for a continuous period of at least 1 year; and
> (c) is eligible for appointment to the position at the higher classification level having regard to the merit principle.
>
> …
>
> (3) The employee may ask the department's chief executive to appoint the employee to the position at the higher classification level as a general employee on tenure or a public service officer, after-
> (a) the end of 1 year of being seconded to or acting at the higher classification level; and
> (b) each 1-year period after the end of the period mentioned in paragraph (a).
>
> (4) The department's chief executive must decide the request within the required period.
>
> (4A) In making the decision, the department's chief executive must have regard to-
> (a) the genuine operational requirements of the department; 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 employment at the higher classification level.
>
> (5) If the department's chief executive decides to refuse the request, the chief executive must give the employee a notice stating-
> (a) reasons for the decision; and
> (b) the total continuous period for which the person has been acting at the higher classification level in the department; and
> (c) how many times the person's engagement at the higher classification level has been extended; and
> (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 employment at the higher classification level.

(6) If the department's chief executive does not make the decision within the required period, the chief executive is taken to have refused the request.

…

(8) In this section-

continuous period, in relation to an employee acting at a higher classification level, has the meaning given for the employee under a directive made under subsection (7).

required period, for making a decision under subsection (4), means-
(a) the period stated in an industrial instrument within which the decision must be made; or
(b) if paragraph (a) does not apply-28 days after the request is made.

[10] The Directive relevantly provides:

6. Decision making

6.1 When deciding whether to permanently appoint the employee to the higher classification level as a general employee on tenure or a public service officer, the chief executive may consider whether the employee has any performance concerns that have been put to the employee and documented and remain unresolved, that would mean that the employee is no longer eligible for appointment to the position at the higher classification level having regard to the merit principle.

6.2 In accordance with section 149C(4A) of the PS Act, when deciding the request, the chief executive must have regard to:
(a) the genuine operational requirements of the department, and
(b) the reasons for each decision previously made, or deemed to have been made, under section 149C of the PS Act in relation to the employee during their continuous period of employment at the higher classification level.

6.3 In accordance with section 149C(6) of the PS Act, if the chief executive does not make the decision within 28 days, the chief executive is taken to have decided that the person's engagement in the agency is to continue according to the terms of the existing secondment or higher duties arrangement.

6.4 Each agency must, upon request, give the Commission Chief Executive a report about the number of known deemed decisions occurring by operation of section 149C(6) of the PS Act.

7. Statement of reasons

7.1 A chief executive who decides to refuse a request made under clause 5 is required to provide a written notice that meets the requirements of section 149C(5) of the PS Act (Appendix A). The notice provided to the employee must, in accordance with section 27B of the *Acts Interpretation Act 1954*:
(a) set out the findings on material questions of fact, and
(b) refer to the evidence or other material on which those findings were based.

7.2 A written notice is not required to be prepared 'after the fact' to support a deemed decision made under clause 6.3.

Grounds of Appeal

[11] The Appellant outlined the following grounds of appeal, in summary:

- the decision is unfair and unreasonable as the decision-maker failed to:

(a) make a decision required to be made under the PS Act within the required period;

(b) consider the mandatory criteria under the PS Act for such a decision;

(c) provide a written notice of the decision;

(d) provide written reasons of the decision including the findings on material questions of fact; and

(e) refer to the evidence or other material on which those findings were based; and

- the decision-maker has not considered the genuine operational requirements of the Respondent as required by s 149C(4A) of the PS Act and the Appellant's work remains a genuine operational requirement of the Respondent and continues to be required by the State of Queensland.

Submissions

[12] The Commission issued a Directions Order calling for submissions following receipt of the appeal notice.

Appellant's submissions

[13] The Appellant filed submissions in support of the appeal. A summary of those submissions are as follows:

- the Appellant submits that she has had no discipline or performance issues raised while acting in the higher classification role;

- on 19 October 2020, the Appellant made a request pursuant to s 149C(3)(b) of the PS Act to be appointed to a higher classification level as a public service officer by email to Senior Sergeant Mick O'Rouke;

- on 25 October 2020, the Appellant received a reply email from Senior Sergeant O'Rouke, stating he had forwarded the request for consideration. The Appellant subsequently followed up with Senior Sergeant O'Rouke on 18 November 2020 as the Appellant had not heard anything further and have not been notified of any decision in relation to her request;

- the Appellant submits that no decision was made within the 28 day period as defined in s 149C(8)(b) of the PS Act, which ended on 16 November 2020;

- the Appellant has lodged an appeal pursuant to s 194(1)(e)(iii) of the PS Act on the basis that the deemed decision and the failure of the Respondent to consider the mandatory criteria in the PS Act and the Directive is unfair and unreasonable;

- Deputy President Merrell in *Morison v State of Queensland (Department of Child Safety, Youth and Women)* (*Morison*),[5] was clear in that the appeal must be decided '*by reviewing the decision appealed against*' and that the issue for determination is '*whether the decision appealed against was fair and reasonable*';

- the Appellant submits that the 'decision' that is the subject of the review is the deemed refusal of the request made under s 149C(3)(b) of the PS Act which is the decision that the chief executive of the Respondent is taken to have made by virtue of s 149C(6) to refuse the Appellant's request to be appointed to the higher duties position;

- the Appellant submits that the decision is entirely defined by the absence of any reasons and a complete lack of evidence or reassurance that the mandatory criteria were given any consideration and it is unclear to the Appellant as to what the appeal rights or grounds of appeal could be;

- the Appellant submits that in allowing the legitimate request for appointment to go unanswered, despite her efforts to follow up and prompt the decision-maker into action, the decision-maker has allowed a deemed refusal to occur. In allowing for the deemed refusal to occur, the decision-maker has failed to:

  (a) make a decision required to be made under the PS Act within the required period;

  (b) consider the mandatory criteria under the PS Act for such a decision;

  (c) provide a written notice of the decision;

  (d) provide written reasons of the decision including the findings on material questions of fact; and

  (e) refer to the evidence or other material on which those findings were based;

- the Appellant submits that a decision that fails to consider a relevant consideration is regarded as not being fair and reasonable. Further, a decision without reasons is also unfair and unreasonable. The deemed decision has no reasons and has not considered the mandatory criteria in s 149C(4A) of the PS Act and cannot be fair and reasonable;

- the Appellant submits that the proper exercise of statutory power inherently requires that the decision-maker's reasons consider the relevant facts and legal criteria, and explain the conclusions drawn. Those explanations need not be lengthy, but they must be adequate such that rights of appeal are not rendered meaningless, and so that a losing party is not left with a justified sense of grievance that the case has not been properly considered;

---

[5] [2020] QIRC 203.

- in the case of the failure to make a decision about the Appellant's request for appointment, the Appellant submits that she is justifiably aggrieved as she does not know whether the request was considered or whether there is any point in making future requests or if they will also be ignored;

- the Appellant submits that her employer has failed to meet their statutory obligations to consider and decide the request and that it cannot be determined that such a decision is fair or reasonable as to do that would completely undermine and negate the purpose of the Directive or the right to make a s 149C request;

- in failing to make a decision in relation to the Appellant's employment status in the higher classification, the decision-maker failed to properly apply the mandatory criteria and has failed to properly take into account the facts that would lead a reasonable person to conclude that the most fair and reasonable decision would be to appoint the Appellant as a public service officer to the higher classification role;

- the Appellant submits that the decision-maker has not considered the genuine operational requirements of the department as required by s 149C(4A) of the PS Act;

- the Appellant submits that the position she is acting against is substantively vacant and in 2019, advice was received that the position has been permanently and recurrently funded. On at least three occasions in 2019 and early 2020, the Appellant has been advised that the process was occurring to have the positions made permanent with the possibility of direct appointment and to date, this has not happened;

- the Appellant submits that had they considered it, it would be clear that no genuine operational requirements or reasons exist for the Respondent to have denied the request;

- at no time whilst performing this role, have the Appellant received any adverse comments, either verbally or written, in relation to her ability to perform this role either internally or externally. The Appellant submits that she demonstrates merit in the role, meeting the merit criteria in s 28 of the PS Act; and

- in the Appellant's circumstances, it would be inconsistent with the objects of the PS Act, the amendments that have given rise to the Appellant's right to request appointment and the purpose of the Directive for the deemed refusal to be upheld as fair or reasonable.

Respondent's submissions

[14] The Respondent filed submissions in response to the Appellant's submissions, in summary:

- section 149C of the PS Act require a chief executive officer to make a decision, within the required period, either to refuse or agree to the conversion of an

employee and provide reasons for a refusal. The subsequent provisions of the legislation reference the mandatory requirements that need to be undertaken by the action to 'decide';

- the Respondent submits that the terminology under s 149C(6) of the PS Act clearly demonstrates that 'the decision' is a specific action associated with subsection (4) that invokes the provisions under s 149C(4A) and (5) of the PS Act. Only when the decision has been made to refuse the request to convert, is there a requirement for a notice under subsection (5) to be provided to the employee. Under s 149C(6) of the PS Act, 'the decision' is not made and a deeming provision applies;

- in the case of the Appellant, no decision was made by the chief executive officer as the matter became deemed to be refused due to the effluxion of time. The specific requirements that would need to be actioned (i.e. under subsections (4), (4A) and (5)) are not imputed to subsection (6) for 'the decision' has not been made. Therefore, there is no requirement upon the chief executive officer to provide written notice and the Appellant's employment in the project role continues until the completion date of 26 February 2020;

- there is no ambiguity in respect of the wording of s 149C of the PS Act. Applying a literal approach in interpretation, it is evident the use of the words 'the decision' in s 149C(6) applies to the decision under subsection (5);

- the Directive is a statutory instrument and is to be considered in interpreting and assisting in the interpretation of the legislative provisions under s 149C of the PS Act;

- clause. 6.3 of the Directive elaborates on the outcome of the deeming provisions of s 149C(6) and also refers to 'the decision' which, under the Directive, is imputed back to clauses 6.1 and 6.2, both referring to the making of the decision regarding the request for conversion;

- the Directive at clause 7 'Statement of Reasons', identifies two separate approaches in respect of an outcome to a request. Clause 7.1 makes it a requirement that upon deciding to refuse a request, the chief executive officer must provide a written notice in accordance with s 27B of the *Acts Interpretation Act 1954* (Qld);

- in contrast, clause 7.2 of the Directive states that a written notice is not required to be prepared 'after the fact' to support a deemed decision made under clause 6.3. This statement is clear on the intent that no written notice is required if a decision is not made within the required period and the chief executive officer has therefore deemed to have refused the request and the employee making the request for conversion is to continue according to the terms of the existing secondment or higher duties arrangement;

- in accordance with the legislative arrangements and the Directive, the Appellant does not have the right to have a written decision made on a deeming provision. The extension of the legislative provision s 149C(6) of the PS Act to incorporate

the statutory instruments clause 6.3 of the Directive establishes that although the request has been deemed to be refused, the employee will retain their current arrangements;

- the Appellant has access to the Directive and is therefore understanding that in the case of a deemed refusal they would remain in their current seconded position until the conclusion of the project they are undertaking. The Appellant would also be cognizant of the findings in the report *High Risk Teams (HRT) – Strengthening Their Contribution to the QPS, a Rapid Evaluation* (the HRT Report) and that there is an end date for this project of HRT position is 26 February 2020;

- the HRT Report identified, '*findings in this evaluation strongly demonstrate that the existing HRT model based on civilians only, creates limitations in the overall integration of the HRT within the QPS*'. The Respondent is reviewing HRT and their ongoing optimum effectiveness with a realignment of services in the Respondent that meets the legislative responsibilities of the Commissioner while ensuring appropriate resourcing of Government commitments; and

- the service realignment program current underway within the Respondent takes into account all operational units and the most efficient and effective resourcing models that can be established that will meet the strategic commitments of the Respondent and Government priorities. The Respondent submits that there is currently, in principle support from the Executive within the Respondent for the conversion of a number of HRT resources at the AO5 and AO6 classification level to positions of sworn police officers to better fulfil policy obligations. There is as yet, no definitive information as to how many positions may be required, whether those position will be sworn and where the administration support is to be situated, regional, and how many in each region, or whether the administration is to be centralised.

Appellant's submissions in reply

[15] The Appellant, in accordance with the Directions Order, filed submissions in reply to the Respondent's submissions, in summary:

- in relation to the Respondent's submission that '*...there is an end date of this project of high risk teams position is 26 February 2021*', the Appellant submits that this is not the understanding of those in the HRT roles and is inconsistent with the messaging that has been communicated to date that the positions will be extended either directly or by expression of interest (EOI). Notably, on 12 November 2020, Inspector Ben Martain advised the Appellant that the Project Officer role would continue until such time as the in-principle decision to convert the Project Officer position to sworn officer positions was finalised. While in-principle support exists, it is unclear if the positions will be converted. At present, the only staff who have done the relevant training to perform this specialist role are the employees currently sitting in the HRT positions;

- on 12 November 2020, Inspector Martain advised that all HRT positions were to be advertised under the EOI process and that this was to happen prior to 31 December 2020. Subsequently, on 17 November 2020, advice was received

from Senior Sergeant O'Rouke on behalf of Inspector Martain, that all HRT positions were going to be extended until 26 February 2021 to allow for the EOI process to be completed;

- the Appellant submits that the Respondent has correctly noted that the Appellant is aware of the findings of the HRT Report. The Appellant is cognisant of those findings, however, the Appellant questions the validity given the concerns raised with the Domestic Violence and Vulnerable Persons Unit at the time of the HRT Report being disseminated;

- the Appellant submits that the majority of the data contained in the HRT Report was more than 12 months old at the time of the HRT Report being written and disseminated. There were significant changes made to the legislation which changed and improved how project officers completed their roles. Staff from the DV Unit conducting the evaluation did not seek input from the relevant employees after those legislative changes took place and as such, the findings of the HRT Report have been made on out-of-date information and flawed premises;

- specific to the Appellant's role and from a Cherbourg HRT point of view, the Appellant strongly disputes the comments in the HRT Report that HRT model based on civilians only creates limitations in the overall integration of the HRT within the Respondent. The responsibility to integrate the HRT within the Respondent, started with the DV Unit. They created the HRT positions, however, failed to provide sufficient guidance at the local district and station levels how that integration was to occur. That was left to the Project Officers and when the Appellant commenced, were given very little guidance;

- the Appellant submits that she has worked very hard to embed the DV Unit at a local station level and in contrast to some of the findings in the HRT Report, it has worked extremely well, with the DV service delivery having been significantly enhanced as a result of having a HRT attached to the station. The Appellant submits that she has an excellent working relationship with the core agencies and the HRT coordinator who sits with the Cherbourg DV HRT and never has the fact that the Appellant is not a sworn officer ever been raised as an issue;

- the Appellant submits that the Respondent's reliance on the HRT Report is placing undue weight on a consideration that may not be relevant;

- the Appellant submits that at the highest, the circumstances that exist are that the Respondent has in-principle support for the conversion of an uncertain number or HRT positions from public servants to sworn employees;

- the Appellant submits that it cannot be said that a genuine operational requirement presently exists which would preclude her appointment, only the potential that changes may be made in future which may impact her particular HRT role; and

- the Appellant submits that the uncertainty if changes may occur in the future does not displace the default position, that employment in the public service should be on tenure per s 25(2)(d) of the PS Act.

Consideration

[16] A decision following a review of the Appellant's request to be appointed to the higher classification role was required to be made pursuant to s 149C(4) of the PS Act. Such a decision was not made by the Respondent within the required period pursuant to s 149C(8) of the PS Act.

[17] In circumstances in which a decision was not made within the required period, the chief executive of the Respondent is taken to have made a decision against which the Appellant can appeal.[6] The Appellant has subsequently filed an appeal notice and submissions have been filed by both parties. The 'deemed' decision to refuse the Appellant's request to be appointed to the higher classification role must be reviewed to determine if it is fair and reasonable.

[18] I will firstly consider the Appellant's submission that the decision cannot be considered fair and reasonable because reasons were not provided in accordance with the PS Act.

[19] Section 149C(6) of the PS Act provides the following:

> (6) If the department's chief executive does not make the decision within the required period, the chief executive is taken to have refused the request.

[6] PS Act ss 194(1)(e)(iii) and 196(e).

[20] Clause 6.3 of the Directive provides the following:

> In accordance with section 149C(6) of the PS Act, if the chief executive does not make the decision within 28 days, the chief executive is taken to have decided that the person's engagement in the agency is to continue according to the terms of the existing secondment or higher duties arrangement.

[21] Both s 149C(6) of the PS Act and clause 6.3 of the Directive contemplate circumstances in which a decision has not be made with respect to a conversion. In these circumstances, the employment continues according to the terms of the existing arrangement.

[22] I accept the Respondent's submission that 'the decision' is a specific action associated with subsection (4) that invokes the provisions under s 149C(4A) and (5) of the PS Act. The requirement for a notice pursuant to subsection (5) applies only when a decision has been made to refuse the request for conversion. The specific requirements that are mandatory[7] following a decision do not apply to subsection (6) as 'the decision' has not been made.

[23] The Directive outlines the requirements for 'Statement of Reasons' in clause 7 (emphasis added):

> 7.1 A chief executive who decides to refuse a request made under clause 5 is required to provide a written notice that meets the requirements of section 149C(5) of the PS Act (Appendix A). The notice provided to the employee must, in accordance with section 27B of the *Acts Interpretation Act 1954*:
> (a) set out the findings on material questions of fact, and
> (b) refer to the evidence or other material on which those findings were based.
>
> 7.2 A written notice is not required to be prepared 'after the fact' to support a deemed decision made under clause 6.3.

[24] Where a chief executive decides to refuse a request, clause 7.1 requires that a notice be provided to the employee in accordance with s 27B of the *Acts Interpretation Act 1954* (Qld). However, clause 7.2 clearly states that a written notice is not required to be provided to support a deemed decision.

[25] In consideration of both clause 7.2 of the Directive and the interpretation of s 149C(6) of the PS Act, the Respondent was not obliged to provide the Appellant with a written notice.

[26] Although I am of the view that there is no statutory requirement that reasons be furnished if the decision is deemed pursuant to s 149C(6) of the PS Act, a fair appeal process relies upon the Appellant being made aware of the Respondent's determinations for the outcome of her employment review. I am satisfied that the Appellant has had the opportunity to examine the Respondent's submissions outlining the considerations of her employment review and was afforded the opportunity to provide submissions in reply.

Genuine operational requirements

[7] As per subsections (4), (4A) and (5).

[27] The PS Act requires that in making the decision, the decision-maker must have regard to the following pursuant to s 149C(4A):

> (a) the genuine operational requirements of the department;

[28] As outlined by Deputy President Merrell in *Morison*, the phrase '… genuine operational requirements of the department' in s 149C(4A)(a) of the PS Act and in clause 6.2(a) of the Directive, construed in context, would at least include consideration of the following:

> … whether or not there was an authentic need, having regard to the effective, efficient and appropriate management of the public resources of the department, to appoint an employee, who has been assuming the duties and responsibilities of a higher classification level in the department for the requisite period of time, to '…the position at the higher classification level.'[8]

[29] In considering the genuine operational requirements of the Department, it was relevant for the Respondent to consider the current review of HRT models as part of the requirement to have regard to the appropriate management of the public resources of the Respondent. As I understand the submissions, the HRT review is ongoing although there is currently in-principle support from the QPS Executive for the conversion of a number of AO5 or AO6 HRT positions to sworn police officer positions. This process, however, is continuing with no conclusive outcomes yet determined as to how many positions will be required, whether those positions will be sworn and the geographical location of administration support.

[30] Both the Appellant and Respondent referred to the HRT Report in their respective submissions. The Appellant outlined a number of concerns with respect to findings in the HRT Report and stated that the Respondent's reliance on the HRT Report places undue weight on a consideration that may not be relevant.

[31] It appears that the review of positions within the HRT is based upon the recommendations in the HRT Report. Considerations as to the merits of these recommendations is beyond the scope of this appeal, however, given the reliance upon the HRT Report for considerations as to the restructure of HRT, I am not persuaded that the HRT Report is an irrelevant consideration.

[32] Consideration of the future requirements of the Appellant's role as part of the current HRT review is consistent with the obligation to have regard to the effective, efficient and appropriate management of the public resources of the Respondent. I understand the Appellant's concerns with respect to the uncertain timing of the proposed restructure, however, it is not unusual for organisational change processes to occur over a period of time that may change depending on other factors. I am satisfied that deliberations are currently underway with respect to the structure of the HRT and that consideration of the genuine operational requirements of the Respondent would preclude conversion of the Appellant to the higher classification level at this time.

---

[8] *Morison* at [40].

[33] I accept the Appellant's submission with respect to her contribution to the Cherbourg DV HRT and note that the Appellant's satisfaction of the merit principle is not in dispute.

[34] In consideration of the material before me and the submissions made by the parties, I am of the view that the decision made by the Respondent was fair and reasonable.

Order

[35] I make the following order:

Pursuant to s 562C(1)(a) of the *Industrial Relations Act 2016* (Qld), the decision appealed against is confirmed.