

David Smith

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BACKGROUND

David has long and broad experience as an Australian Government lawyer in most aspects of commercial and public law across a diverse range of agencies including DIBP, Department of Communications, Department of Finance, AGS and DHS.

David has:

- › diverse contracting, procurement and grant management experience, including ICT;
- › advised on administrative law, information law (FOI and privacy) and the application of complex legislative schemes;
- › drafted legislative instruments;
- › project-managed complex and controversial legislation through the primary and secondary legislation processes;
- › managed large teams processing high volume FOI requests, CDDA and legal liability claims from agency customers, and customer privacy complaints;
- › defended agency decisions in the AAT;
- › lead the resolution of complex high value disputes, including coordinating judicial review and commercial litigation in Commonwealth and State/Territory courts at all levels.

David is particularly effective working in multi-disciplinary teams on complex projects. He has also successfully managed diverse teams of over 20.

David has a Baseline security clearance.

EXPERTISE

- › Commercial law
- › Legal support for major projects
- › Information law
- › Administrative law and statutory interpretation
- › Legislation development
- › Governance
- › Drafting and document review

Commercial law

Provided legal and probity support for a large number of procurements for goods and services, including ICT, WoG air travel and WoG major office machines.

Advised on eGov projects, including myGov.

Advised on establishment and management of grant programmes, including high value telecommunication infrastructure grants.

Managed major commercial litigation, including:

- › multi-million dollar stamp duty dispute, involving constitutional issues,

between the Commonwealth and NSW over the sale of Sydney Airport, with constitutional issues

- › a complex and long-running equitable claim to recover proceeds of fraud
- › a dispute (ultimately settled) with the licensee of a parcel of Commonwealth land over environmental remediation of the site, with constitutional issues

Advised on acquisition, management and disposal of Commonwealth non-Defence land in various jurisdictions.

Advised on the handling of major Comcover claims, including Pan Pharmaceuticals and Cornwell superannuation matters.

Legal support for major projects

As part of a multi-disciplinary team, provided legal, commercial, probity and governance support for the Welfare Payments Infrastructure Transformation (WPIT) programme, a very large ICT-enabled programme to transform welfare service delivery. This included:

- › advising on commercial and procurement strategy
- › drafting procurement documentation for complex multi-stage procurement processes for major ICT vendors
- › negotiating a replacement contract with a major existing vendor
- › advising on internal and external programme governance

Provided legal support for Human Services portfolio integration and Service Delivery Reform (SDR), including:

- › complex legislation to integrate Centrelink and Medicare Australia into DHS, including significant transitional and consequential provisions
- › replacing 6 enterprise agreements with a consolidated agreement that dovetailed with the Public Service Act provisions on administrative rearrangements
- › statutory and administrative transition of multiple service delivery agreements between DHS and policy departments
- › complex PIAs involving new business processes to leverage integration

As part of a multi-agency team, provided legal support for the original electronic health records system (now My Health Record), including:

- › extremely rapid concurrent design of legislation, business processes and ICT systems
- › conducting a comprehensive and detailed compliance assessment of the new system, during its development.

Information law

Advised on FOI, privacy, secrecy and archives legislation.

Drafted or managed numerous PIAs.

Coordinated a major project to bring DHS business processes and ICT systems

into line with major reforms to the Privacy Act.

Coordinated a project to modify Department of Communications policies and business processes into line with earlier major reforms to the Privacy Act.

Conducted paid client training in information law.

Administrative law and statutory interpretation

Instructed in numerous migration and administrative law matters in the Federal Court, Full Federal Court and High Court, some with constitutional issues.

Primary decision-maker for refugee status claims, and advised on merits review of migration decisions.

Advised on complex legislative schemes in the areas of immigration, broadcasting and telecommunications.

Managed the DHS team processing CDDA and legal liability claims from customers.

Managed the DHS team conducting privacy complaint investigations.

Legislation development

Lead complex primary and subordinate legislation projects at Immigration and Communications, including:

- › novel measures to constrain judicial review of refugee status decisions
- › the regulatory regime for the introduction of digital television broadcasting in Australia
- › major reforms to media ownership law

Governance

Advised on Commonwealth financial framework legislation.

Advised on interim governance arrangements for cooperation between Human Services portfolio agencies before formal integration.

Advised on the operation of government business enterprises (including Telstra, Australia Post, Medibank Private), Corporate Commonwealth entities (including ABC, national cultural institutions) and business operations (including Artbank and CRS Australia).

Advised on governance of major projects, including as a member of the project board.

Advised on proposals for DHS and predecessor agencies to engage in discretionary new business activities.

Drafting and document review

Plain language drafting is one of David's particular interests and strengths. David drafts clearly, precisely and concisely, either from scratch or when reviewing existing documents – from the simplest instrument of appointment, to complex procurement documents and contracts, and legislative instruments.

QUALIFICATIONS

- › Bachelor of Laws, First Class Honours (University of Adelaide)
- › Bachelor of Arts (Jurisprudence) (University of Adelaide)
- › Graduate Diploma in Legal Practice (University of Technology, Sydney)
- › Admitted as a lawyer of the Supreme Court of the ACT
- › Restricted practising certificate

MEMBERSHIPS

- › ACT Law Society
- › Australian Corporate Lawyers Association