

David Smith

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BACKGROUND

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

David has:

- › advised on administrative law, information law (FOI, privacy and secrecy provisions) and the application of complex legislative schemes;
- › 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;
- › provided legal advice through all stages of major projects;
- › drafted legislative instruments;
- › project-managed complex and controversial legislation through the primary and secondary legislation processes;
- › lead the resolution of complex high value disputes, including coordinating judicial review and commercial litigation in Commonwealth and State/Territory courts at all levels;
- › diverse contracting, procurement and grant management experience, including ICT.

David is particularly effective working in multi-disciplinary teams on complex projects. He has also successfully managed diverse teams of over 20. David is a practical lawyer who brings value to clients by being able to cut through complexity and present clear solutions to legal problems across the spectrum of public law.

David has a Baseline security clearance.

Legal and assurance support for major projects

Led the team providing legal and assurance support for the DHS Compliance Modernisation Program. This included: working with multi-disciplinary project teams to ensure changes to welfare compliance processes and systems are compliant with social security and privacy laws; advising on simplification opportunities for customer communications and business processes; legal advice in relation to a large supplementary labour hire workforce for welfare compliance.

Administrative law and decision-making

David has advised extensively on administrative decision-making, primarily in the migration and refugee context. He has managed merits review and judicial review cases at all levels, from appearing as advocate in the AAT to instructing senior counsel in High Court appeals. David has provided administrative decision-making training to the migration agents regulator.

Privacy and secrecy

David has drafted various Privacy Impact Assessments and advised on complex secrecy provisions in the health and welfare areas. He managed the branch at Human Services responsible for advising on privacy and secrecy, and for conducting privacy breach investigations. David led projects at Communications and Human Services to ensure ICT systems and business processes were compliant with major reforms to the Privacy Act (the extension of the Act to the private sector in 2000, and the introduction of the APPs).

David advised DHS on changes to the welfare compliance system after it came under significant public scrutiny. David's advice ensured the compliance system changes were designed, built and implemented in a way that complied with social security and privacy law.

FOI and information release

David has advised on and managed many complex FOI matters, including in the AAT. He managed the FOI team at Human Services and advised on release of information outside the FOI regime.

Statutory interpretation

David has advised on the interpretation of various complex legislative schemes, including migration and citizenship legislation, the communications sector (broadcasting, radiocommunications and telecommunications), and health and social security legislation governing Medicare and Centrelink services.

Legislation development

David has managed many primary and secondary legislation projects, including novel measures to legislatively constrain available grounds of judicial review in migration matters, the regulation of digital television broadcasting in Australia, major and controversial reforms to Australia's media ownership regime, and the integration of Centrelink and Medicare Australia into the Department of Human Services.

Drafting legislative instruments

David has drafted complex legislative instruments and other statutory instruments, including appointments of statutory office-holders. Plain language drafting is one of David's 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.

CDDA and act of grace

David managed the team at Human Services that assessed all CDDA and act of grace claims. This included acting as delegate for all decisions, and personally investigating the most complex and difficult cases.

RELEVANT EXPERTISE

- › Freedom of information, privacy and public interest disclosure
- › Administrative law and statutory interpretation
- › Dispute Resolution and litigation
- › Legislation development
- › Governance
- › Drafting and document review

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
- › Clarity (an international association promoting plain legal language)