

Summary

Kate practises as a barrister at the private bar. Kate has a predominantly public law and regulatory practice.

Kate regularly appears, both led and unled, in federal and state jurisdictions at trial and appellate level. She practices nationally in the Federal Court of Australia and the Administrative Appeals Tribunal.

Kate appeared for the plaintiffs in the two most recent High Court cases on the operation and application of the power in s 51(xix) of the *Constitution*: the ground-breaking case of *Love v Commonwealth of Australia* [2020] HCA 3; (2020) 94 ALJR 198; 375 ALR 597 (where she was led by Stephen Keim SC) and, *Chetcuti v Commonwealth of Australia* [2021] HCA 25 (where she was led by Georgina Schoff SC and Georgina Costello SC).

Before being called to the Bar in June 2015, Kate was a Senior Solicitor in the government team of a national firm. Prior to that, she was an Associate in the Administrative Appeals Tribunal. Kate served on the Bar Council of the Queensland Bar Association from December 2017 to December 2018. Kate currently sits on the Records Review Committee of the Board of the Queensland State Archives.



Higgins Chambers

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Areas of Practice

Kate predominantly practices in public and administrative, appellate, and regulatory law (predominantly industrial and corporations law).

Cases

High Court of Australia

Original jurisdiction

Thoms & Love v The Commonwealth [2020] HCA 3; (2020) 94 ALJR 198; 375 ALR 597 (led by Stephen Keim SC and with Arron Hartnett)

Chetcuti v Commonwealth of Australia [2020] HCA 42 (led by Georgina Schoff SC, Georgina Costello SC and with Angel Aleksov)

Plaintiff B65/2020 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (unreported, Matter No B65/2020, 4 August 2021).

Appeals

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v Moorcroft [2021] HCA 19 (led by Stephen Keim SC)

Chetcuti v Commonwealth of Australia [2021] HCA 25 (led by Georgina Schoff SC and Georgina Costello QC)

Special leave applications

Australian Securities and Investments Commission v King [2019] HCA 104 (led by Jonathon Moore QC)

Minister for Immigration and Border Protection v Moorcroft [2020] HCA (led by Stephen Keim SC)

Full Court of the Federal Court of Australia

Asic v Comcare [2020] FCAFC 105

Woodhouse v Comcare [2021] FCAFC 95 (led by Andrew Berger QC)

Leach v Comcare [2021] FCAFC 134 (led by Andrew Berger QC)

Federal Court of Australia

Mununggurr v Comcare [2020] FCA 1786 (led by Andrew Berger QC)

Australian Building and Construction Commissioner v Ingham [2020] FCA 1632 (led by Adrian Duffy QC)

Norouzi v The Director of the Professional Services Review Agency [2020] FCA 1524

Leach v Comcare (No 2) [2020] FCA 1202 (led by Andrew Berger QC)

Kitchen v Director of Professional Services Review Under s 83 of the Health Insurance Act 1973 (Cth) [2019] FCA 2022 (unled against silk)

Kitchen v Director of Professional Services Review Under s 83 of the Health Insurance Act 1973 (Cth) [2019] FCA 1879 (unled against silk)

Leach v Comcare [2019] FCA 1698

Hutchinson v Comcare [2019] FCA 1440

Comcare v ZZRP [2019] FCA 952

Ascic v Comcare [2019] FCA 819

Australian Securities & Investments Commission v CFS Private Wealth Pty Ltd & Ors [2019] FCA 24

Australian Building and Construction Commission v Construction, Forestry, Maritime, Mining and Energy Union (The Bruce Highway Caloundra to Sunshine Upgrade Case) [2018] FCA 553 (led by Matthew Brady QC)

Hutchinson v Comcare [2018] FCA 505

Read v Military Rehabilitation and Compensation Commission [2018] FCA 848

Military Rehabilitation and Compensation Commission v Katterns [2017] FCA 641 (led by Philip Hack QC)

Comcare v Bromham [2017] FCA 174

BZAIW v Minister for Immigration and Border Protection [2016] FCA 1326

Queensland Court of Appeal

King & Ors v Australian Securities and Investments Commission [2018] QCA 352 (led by Patrick O'Shea QC, Jonathon Moore QC and Matthew Brady QC)

Gognos Holdings Ltd & Anor v Australian Securities and Investments Commission [2018] QCA 181 (led by Matthew Brady QC)

Supreme Court of Queensland

Gognos Holdings Ltd & Anor v Australian Securities and Investments Commission [2017] QSC 207 (led by Matthew Brady QC)

Federal Circuit Court of Australia

BZAHE v Minister for Immigration & Anor [2015] FCCA 518

Gill v Minister for Immigration and Border Protection [2016] FCCA 3123

Wang v Minister for Immigration and Border Protection [2017] FCCA 590

Simpson Networks Trading As Melbourne School Holiday Club v Secretary, Department of Education and Training [2019] FCCA 804 (led by Philip Hack QC)

Australian Building and Construction Commissioner v ADADN Pty Ltd [2021] FCCA 1820

Administrative Appeals Tribunal

Corporations

JSKN and Australian Securities and Investments Commission [2017] AATA 818

Commonwealth Workers' Compensation

Zoumaras v Comcare (Compensation) [2021] AATA 2668

MacFarlane v TNT Australia Pty Ltd (Compensation) [2021] AATA 2239

Hareer v Comcare [2020] AATA

Bell v Comcare (Compensation) [2020] AATA 832

Saad v Comcare (Compensation) [2021] AATA 91

ZZRP v Comcare [2021] AATA 137

Ross v Comcare [2020] AATA 4350

MacFarlane v TNT Australia Pty Ltd (Compensation) [2020] AATA 3721

Ortolan v Australian Postal Commission (Compensation) [2020] AATA 3642

Ford v Comcare (Compensation) [2020] AATA 3388 (successfully appealed to the Federal Court)

SFDG v Comcare (Compensation) [2020] AATA 3197

Woodhouse v Comcare [2020] AATA

Hook v Comcare (Compensation) [2020] AATA 1792

Cremona v Comcare (Compensation) [2020] AATA 696

Jenkins v Comcare [2020] AATA 499

Pike v Australian Capital Territory (Compensation) [2020] AATA 110

Berry v Comcare [2019] AATA 4978

Ridge v Comcare [2019] AATA 3553

O'Callaghan and Comcare [2019] AATA 2511

Ascic and Comcare [2019] AATA 2476 (appeal to the Federal Court dismissed)

Dirou and Comcare [2019] AATA 2118

Mununggurr and Comcare (Compensation) [2019] AATA 1564 (appeal to the Federal Court dismissed)

Onassys and Comcare [2019] AATA 1338

Thompson and Comcare [2019] AATA 714

Kucharski and Comcare [2019] AATA 265

Colley v Comcare [2019] AATA 166

Hutchinson and Comcare [2018] AATA 4357 (appeal to the Federal Court dismissed)

Cremona and Comcare [2018] AATA 3598

Carlson and Telstra Corporation Limited [2018] AATA 3359

Graham v Comcare (against SC) [2018] AATA 3013

Diehm v TNT Pty Ltd [2018] AATA 2670

Barton v Comcare [2018] AATA 2582

de Gail and Comcare [2018] AATA 2309

Woodward and Comcare [2018] AATA 1835

Leach and Comcare [2018] AATA 1632 (appeal to the Federal Court dismissed)

Thoreau and Comcare [2018] AATA 1517

Davitt and Telstra Corporation Limited [2018] AATA 10

Bromham and Comcare [2017] AATA 1515

Napier and Comcare [2017] AATA 1452

Ascic and Comcare [2017] AATA 1436 (appeal to the Federal Court and to the Full Federal Court dismissed)

Cremona and Comcare [2017] AATA

Smith and Comcare [2017] AATA 1006

Young and Comcare [2017] AATA 325

Bromham v Comcare (remitted matter) [2017] FCA 174

Alam and Comcare [2017] AATA 31

Nicholson and Comcare [2016] AATA 905

THTC and Comcare [2016] AATA 884

Mitchell and Comcare [2016] AATA 871

Evans and Comcare [2016] AATA 827

Kelso v Comcare [2016] AATA 750

Drummey and Comcare [2016] AATA 738

Bromham and Comcare [2016] AATA 484 (successful appeal to the Federal Court)

Kingsbury and Australian Postal Corporation [2016] AATA 346

Cremona and Comcare [2015] AATA 971

Kelso v Telstra Corporation Limited [2015] AATA 403

Military and Veterans' Affairs

Myles v Repatriation Commission [2021] AATA

Cooke and Military Rehabilitation and Compensation Commission [2019] AATA 1344

Katterns and Military Rehabilitation and Compensation Commission [2018] AATA 4462

Reeday and Military Rehabilitation and Compensation Commission [2017] AATA 1320

Read and Military Rehabilitation and Compensation Commission [2017] AATA 1109

Larter and Military Rehabilitation and Compensation Commission [2017] AATA 67

Read and Military Rehabilitation and Compensation Commission [2015] AATA 930

Coleman and Military Rehabilitation and Compensation Commission [2015] AATA 955

National Disability Insurance Scheme

HPSC v National Disability Insurance Agency [2021] AATA

Immigration

NPRT v Minister for Home Affairs (Citizenship) [2020] AATA 3641

CKLL v Minister for Home Affairs [2019] AATA

Social Security

Nash v DSS [2017] AATA 635

Love and Secretary, Department of Social Services [2016] AATA 8

Murphy and Secretary, Chief Executive Centrelink (2016/B090443) (led by Stephen Keim SC)

Secretary, Department of Social Services and Beasley [2015] AATA 924

Fortescue and Secretary, Department of Social Services [2015] AATA 970

Experience

Kate's recent experience includes:

- Appearing (led), in two separate matters, before a Full Bench of the High Court in its original jurisdiction regarding the meaning of the word 'alien' in s 51(xix) of the Constitution
- Appearing (led) in applications for special leave to appeal to the High Court
- Advising and appearing (led and unled) in appellate proceedings in the Federal Court pursuant to s 44 of the *Administrative Appeals Tribunal Act 1975*, s 39B of the *Judiciary Act 1903* and the *Administrative Decisions (Judicial Review) Act 1977*
- Advising and appearing (led) in appellate proceedings in the Queensland Court of Appeal
- Advising and appearing (led and unled) in winding up proceedings in the Supreme Court of Queensland and the Federal Court
- Appearing as Counsel Assisting (unled) the Commissioner of the Australian Building and Construction Commission in numerous compulsory examinations
- Advising and appearing (led and unled) in proceedings on behalf of the Australian Building and Construction Commission under the *Fair Work Act 2009* and the *Building and Construction Industry (Improving Productivity) Act 2016*
- Advising and appearing (unled) in proceedings on behalf of the Fair Work Ombudsman under the *Fair Work Act 2009*
- Advising and appearing (unled) in merits review proceedings on behalf of Comcare, the ACT Government, the Military Rehabilitation and Compensation Commission, ASIC, the Department of Education, Department of Human Services, Minister for Immigration and Border Protection, the National Disability Insurance Agency, the Repatriation Commission, Australian Air Express, Australia Post, Telstra Corporation Limited and TNT Pty Ltd Commonwealth workers' compensation/personal injuries matters in the Administrative Appeals Tribunal
- Advising and appearing (led and unled) in applications for urgent injunctions
- Advising and appearing (led and unled) in urgent stay applications
- Advising Bupa Pty Ltd on regulatory matters and preparing for its appearance at the Aged Care Royal Commission
- Advising various aged care facilities on regulatory matters
- Advising solicitors in professional disciplinary and negligence proceedings
- Advising and appearing (unled) in applications to remove parties from proceedings in the Supreme Court of Queensland

- Advising, drafting pleadings and appearing in matters (led and unled) arising from income protection, total and permanent disability and personal injuries claims
- Conducting workplace investigations

Appointments

May 2016 – present Member of the Queensland State Archives, Public Records Review Committee
 2017 Council Member, Bar Association of Queensland

Memberships and Service

Queensland Bar Association

Committee Member of the Queensland Bar Association Bar Care Committee

Committee Member of the Queensland Bar Association New Bar Committee

Convener and Mentor, Federal Magistrate Keith Slack OAM Memorial Prize, Family Law Mentorship Program (awarded annually to the best performing student in the unit LLB243 Family Law, QUT)

LawRite

Career

June 2015 – present Barrister, Qld Private Bar
 December 2010 – December 2014 Senior Solicitor, Sparke Helmore Lawyers
 January 2010 – December 2010 Associate, Administrative Appeals Tribunal
 February 2010 Admitted as a legal practitioner

Education

2004 - 2008 Bachelor of Laws (Hons), Griffith University
 2004 - 2008 Bachelor of Arts in Politics and Government (Hons), Griffith University
 2009 Graduate Diploma in Legal Practice, Skills and Ethics, Griffith University

Publications and Presentations

- 2011 'Easy reading is damned hard writing', Inside Insurance
- 2012 'Got a problem? DSM-V can diagnose you!', Insurance Matters
- 2013 'Comcare ruling highlights the value of common sense' (an analysis of the High Court's ruling in *Comcare v PVYW* (2013) 250 CLR 246), Insurance Matters
- 2015 'The new look AAT; A Commonwealth Super Tribunal', Ethos, Journal of the ACT Law Society
- 2015 'The new look AAT; A Commonwealth Super Tribunal', Proctor
- 2015 'Natural justice and due process; a briefing on bias', Proctor
- 2019 'Appearing as a witness in the AAT', Medilaw psychiatrists peer review meeting
- 2019 'Arising out of, or in the course of' employment: where does work end and life begin?' Law Council of Australia Comcare Hot Topics Seminar December 2019
- 2020 'Reflections on the recent High Court Decision in *Love & Thoms*: indigenous rights and immigration law' Law Council of Australia Migration Law Conference March 2020
- 2020 'Reflections on the recent High Court decision in *Love v Commonwealth of Australia*' [2020] HCA 3, Balance, ed 2/20 (publication of the Law Society of NT)
- 2020 'Reflections on the recent High Court decision in *Love: The Constitution*, Indigenous rights and immigration Law', Ethos (publication of the Law Society of ACT)
- 2020 'Reflections on the High Court decision in *Love v Commonwealth of Australia* [2020] HCA 3': The Constitution, indigenous rights and immigration law, Precedent, Issue 159 – July/August 2020 (publication of Australian Lawyers Alliance)
- 2021 'Procedural fairness and practical justice in the delivery of ex tempore reasons in the Federal Circuit Court – *Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v AAM17* [2021] HCA 6'
- 2021 The implications of *Woodhouse v Comcare* [2021] FCAFC 95 – I feel your 'Prain', 30 July 2021 – presentation to Sparke Helmore Lawyers national government team and clients