



HEALTH ALERT

25 January 2016

Judgments	1
Commonwealth. Fair Work Commission	1
New South Wales	2
Queensland	2
United Kingdom	2
Legislation	3
Commonwealth	3
Reports	3
Australia. Health Practitioner Regulation Agency and the boards (AHPRA)	3
Australia. National Health & Medical Research Council (NHMRC)	3
Australia. Therapeutic Goods Administration (TGA)	3
Australian Commission on Safety and Quality in Health Care	5
Australian Capital Territory (ACT). Health Directorate	5
New South Wales (NSW). Ministry of Health	5
Northern Territory. Department of Health	6
Queensland. Department of Health	6
Queensland. Office of the Health Ombudsman	7
South Australia (SA). Department for Health & Ageing	7
Tasmania. Department of Health & Human Services	7
Victoria. Department of Health	8
Western Australia (WA). Department of Health	8
United Kingdom. Department of Health	8
Canadian Medical Association (CMA)	9
About us	9
More information	9

JUDGMENTS

Commonwealth. Fair Work Commission

15 January 2016 - [Lawrence v Calvary Home Care Services Ltd \[2016\] FWC 175](#)

This case concerns the dismissal of an employee of Calvary Home Care Services, who was providing care to a residential Calvary client. The grounds were based on performance and conduct, including not

reporting on the health of a client and breaching Calvary policies in making private arrangements with clients. The worker responded to the former ground by arguing that she was using her initiative and skills when dealing with the client and decided that updating Calvary on the client's health was not necessary. With regard to the provision of additional services, the worker submitted that she had to "work outside the square" and believed her duty of care meant that additional private arrangements were necessary, despite being declined by Calvary. She argued that for her not to provide the services would be placing too much emphasis on employee policies and manuals over her responsibility to clients.

The court examined the validity of the Calvary policies, deeming they were important for client care and for protecting employees. In addition, employees were clearly told that the policies applied and the policies' purposes were explained, such as to ensure workers compensation coverage. The court accepted that this was sufficient to make the worker aware of the requirements and consequences of a breach, and that any decision in relation to reporting of a client's condition or addition of services to clients needed to be discussed and agreed by Calvary, not unilaterally decided by an employee. Accordingly, it was not an unfair dismissal.

New South Wales

19 January 2016 - [Health Care Complaints Commission v Flekser \[2016\] NSWCATOD 1](#)

This case relates to the alleged fraudulent billing where the practitioner submitted he was assisting in procedures at which he could not establish he was present. In addition, he was accused of billing for procedures that should not have been performed as he was not licensed for private practice by the hospitals hosting the procedures. One of the key matters that came before the Tribunal was whether there had been a genuine mistake as opposed to a deliberate fraudulent claiming and repayment only upon discovery of that fraud.

The practitioner submitted that he believed he had assisted in the operations that he had claimed, based on records he examined after the procedure that he alleged were in his unique style so must have been made by him. In relation to billing for unlicensed procedures, he claimed that he genuinely did not know he was unable to perform and claim for those procedures. He claimed a lack of familiarity with the 'visiting medical officer' requirement, and lapses in memory relating to certain breaches.

Ultimately, the Tribunal was satisfied that claiming certain procedures for which he could not prove attendance amounted to improper and unethical practice, as there was knowledge of the inappropriateness at the time. However, the Tribunal also found that there were some occurrences where the practitioner may have been genuinely unaware of requirements, such as being licensed for private practice, and could, therefore, not be held to have acted dishonestly in those cases. Sanctions will be dealt with at a later date

Queensland

25 November 2016 - [Psychology Board of Australia v McArthur \[2015\] QCAT 475](#)

PROFESSIONS AND TRADES –HEALTH CARE PROFESSIONALS –PSYCHOLOGISTS – DISCIPLINARY PROCEEDINGS –where registrant admits to behaviour that constitutes unsatisfactory professional conduct –where registrant failed to keep adequate clinical records –where registrant breached undertakings made to the Psychology Board of Australia –whether a suspension would be an appropriate sanction –where mitigating factors relating to appropriate sanction –where registrant reprimanded –where costs order imposed on registrant

United Kingdom

19 January 2016 - [Daniel & Anor v St George's Healthcare NHS Trust & Anor \[2016\] EWHC 23 \(QB\)](#)

15 January 2016 - [Young v Borders Health Board \[2016\] ScotCS CSOH_13](#)

19 January 2016 - [Croydon Health Services NHS Trust v Beatt \[2016\] UKEAT 0136 15](#)

LEGISLATION

Commonwealth

- 21 January 2016 - [Repatriation Pharmaceutical Benefits Scheme](#) - F2016C00087 - R43/2013 as amended
- 21 January 2016 - [MRCA Pharmaceutical Benefits Scheme \(No. MRCC 44/2013\)](#) - F2016C00088 - Compilation No. 3 MRCC 44/2013 as amended
- 20 January 2016 - [MRCA Pharmaceutical Benefits Scheme \(No. MRCC 44/2013\)](#) - F2016C00085 - Compilation No. 2 MRCC 44/2013 as amended
- 20 January 2016 - [Australia New Zealand Food Standards Code - Standard 1.2.7 - Nutrition, Health and Related Claims](#) - F2016C00082 - Standard 1.2.7 as amended
- 20 January 2016 - [Australia New Zealand Food Standards Code - Standard 2.9.5 - Food for Special Medical Purposes](#) - F2016C00081 - Standard 2.9.5 as amended
- 20 January 2016 - [Repatriation Pharmaceutical Benefits Scheme](#) - F2016C00079 - R43/2013 as amended
- 18 January 2016 - [Military Rehabilitation and Compensation \(Non-warlike Service\) Determination 2015 \(No. 2\)](#) - F2016L00049 - as made
- 18 January 2016 - [Veterans' Entitlements \(Non-warlike Service - Operation Manitou\) Determination 2015](#) - F2016L00048 - as made

REPORTS

Australia. Health Practitioner Regulation Agency and the boards (AHPRA)

- 21 January 2016 - [Tribunal reprimands psychologist, finds unprofessional conduct](#) - A tribunal has reprimanded a psychologist and found she engaged in unprofessional conduct for failing to disclose being convicted of driving-related offences.
- 20 January 2016 - [Call for applications](#) - Call for applications for appointment to the Podiatry Board of Australia's list of approved persons for appointment to panels.
- 19 January 2016 - [AHPRA prosecutes former doctor](#) - AHPRA is prosecuting a former doctor for claiming to be a registered medical practitioner.
- 18 January 2016 - [AHPRA and Chiropractic Board take action on false or misleading advertising](#) - The Chiropractic Board of Australia and AHPRA are working with other regulators to act on concerns about potentially false or misleading advertising by a small number of chiropractors.

Australia. National Health & Medical Research Council (NHMRC)

- 20 January 2016 - [Strengthening Australian-U.S. Cooperation in Health and Medical Research](#)
- 22 January 2016 - [NHMRC Research Tracker](#)
- 15 January 2015 - [NHMRC Health Tracker - January](#)

Australia. Therapeutic Goods Administration (TGA)

- 22 January 2016 - [New Tyvek® materials: regulatory obligations](#) - Manufacturers need to check that the performance and safety of their medical devices continue to meet the Australian Essential Principles (EPs).
- 21 January 2016 - [Consultation: Proposed amendments to the Poisons Standard - ACMS and ACCS meeting, March 2016](#) - Invitation for public comments on delegate initiated scheduling proposals - ACMS and ACCS meeting March 2016.
- 21 January 2016 - [Cannabis re-scheduling proposal - questions and answers](#) - Questions and answers on the re-scheduling proposal for Cannabis.

19 January 2016 - [Sextra capsules](#) - Safety advisory

19 January 2016 - [Jack Rabbit tablets](#) - Safety advisory

18 January 2016 - [Medical Devices Safety Update, Volume 4, Number 1, January 2016](#) - Battery management a growing issue; safety alerts issued for two knee implants; IUCDs and uterine perforation; recent safety alerts; inSite program extends to Sydney

15 January 2016 - [Conference participation by the TGA](#) - Added ARCS Requirements for quality - module 3 and module 2.3.

13 January 2016 - [Viagra 007 tablets](#) - Safety advisory

13 January 2016 - [Court action](#) - Conviction for criminal charges for dealing with unapproved therapeutic goods.

11 January 2016 - [HeartWare Ventricular Assist Device AC adapters and batteries](#) - Hazard alert - potential for loss of power.

11 January 2016 - [Updates to the list of designated orphan drugs](#) - Added Isavuconazonium sulfate and Teduglutide (REVESTIVE).

8 January 2016 - [Public submissions on scheduling matters referred to the ACCS #15, November 2015](#) - Public submissions made in response to the delegate's proposed amendments to the Poisons Standard referred to the ACCS #15 are now available.

6 January 2016 - [Australian Public Assessment Reports for prescription medicines](#) - Added Human papillomavirus vaccine types 16 and 18 (recombinant, AS04 adjuvanted) (Cervarix) and Valganciclovir (Valcyte).

24 December 2015 - [Cost recovery implementation statement: Over the counter medicines, from 1 January 2016](#) - Updated incorporating new fee structure.

24 December 2015 - [TGA presentations: electronic CTN scheme information sessions, 24-25 November 2015](#) - TGA presentations given at the electronic Clinical Trial Notification (CTN) scheme information sessions.

23 December 2015 - [Staloral and Phostal](#) - Recall - potential incorrect labelling

22 December 2015 - [OTC new medicines registration process](#) - This guidance is intended to assist applicants to register a non-prescription over-the-counter (OTC) medicine on the Australian Register of Therapeutic Goods (ARTG).

22 December 2015 - [Process to change a registered OTC medicine](#) - This guidance is intended for sponsors applying to change the entry in the ARTG for a registered non-prescription over-the-counter (OTC) medicine.

22 December 2015 - [Samarys polyethylene glycol anterior cervical cage](#) - Hazard alert - potential for adverse events due to missing or protruding gold wires.

22 December 2015 - [Advertising health services with medical devices](#) - Information to consider when advertising health services that involve medical devices and IVDs.

21 December 2015 - [Mycophenolate mofetil](#) - Safety advisory - new contraindications relating to pregnancy and breastfeeding.

21 December 2015 - [Blue Diamond capsules](#) - Safety advisory - Blue Diamond capsules pose a serious risk to your health and should not be taken.

19 December 2015 - [Guidance for new registered complementary medicine applications](#) - Upgraded online facility for Registered Complementary medicine applications.

18 December 2015 - [GMP clearance application process improvements](#) - MRA GMP clearance application processing timelines - December 2015 update.

17 December 2015 - [Regulation of biosimilar medicines](#) - Guidance on regulation of biosimilar medicines has been updated.

16 December 2015 - [Half yearly performance report - January to June 2015](#) - The half yearly performance report covering the performance statistics for January to June 2015 is now available.

16 December 2015 - [TGA presentations given at the ARCS Australia Annual General meeting, 26 November 2015](#) - Medicines regulatory environment and regulation of innovative therapies and technologies.

Australian Commission on Safety and Quality in Health Care

Commission update e-newsletter, December 2015 ([PDF 1MB](#)) ([HTML](#))

Australian Capital Territory (ACT). Health Directorate

21 January 2016 - [First phase of expanded Emergency Department set to open](#) - The first phase of the \$23 million Emergency Department expansion at Canberra Hospital is set to begin operation in the coming weeks, Minister for Health Simon Corbell announced today.

19 January 2016 - [DA amendment for new public hospital available for consultation](#) - A development application amendment containing detailed plans for the University of Canberra Public Hospital is available for public comment until February 8 (previous published date of 9 February was incorrect), Minister for Health Simon Corbell announced today.

New South Wales (NSW). Ministry of Health

Media Releases

21 January 2016 - [Roundtable on security in NSW hospitals](#) - Health Minister Jillian Skinner met today with the Health Services Union to outline extra security measures to deal with aggression and violence in hospitals.

20 January 2016 - [NSW Government expands Western NSW Integrated Care Strategy](#) - Health Minister Jillian Skinner and Member for Orange Andrew Gee today announced five new sites have been selected to join the transformation of Western NSW integrated care. The Western NSW Integrated Care Strategy is a NSW Health initiative which strengthens the connection between general practice, hospitals and other health providers to improve regional health outcomes and reduce the number of avoidable hospital admissions.

20 January 2016 - [Western NSW Telehealth Strategy launched](#) - NSW Deputy Premier Troy Grant and Health Minister Jillian Skinner today launched a strategy that will bring healthcare closer to home in Western NSW. Telehealth features a range of health services and activities delivered by technology and secure high-speed internet. Often mistaken for telemedicine - which focuses on consultation and treatment by technology - Telehealth includes staff training, mentoring and improving professional connectivity and research.

20 January 2016 - [\\$12 million Peak Hill MPS officially opened](#) - The Peak Hill Multi-Purpose Service (MPS) was officially opened today by NSW Deputy Premier Troy Grant, Health Minister Jillian Skinner and Orange MP Andrew Gee. They were joined by Federal Member for Calare John Cobb at the new facility, which was jointly-funded by the NSW Government (\$6 million) and the Commonwealth (\$6 million through the Health and Hospitals Fund).

18 January 2016 - [Record Number of Intern Doctors in 2016](#) - A record cohort of medical graduates will commence their year-long internship in NSW hospitals tomorrow. The NSW Government will fund 983 intern places in 2016 at a cost of \$107 million - this is more intern positions than any other state or territory.

Policy Directives & Guidelines

19 January 2016 - [Infants and Children Insertion and Confirmation of Placement of Nasogastric and Orogastric Tubes](#) GL2016_003

11 January 2016 - [NSW Contingency Plan for Viral Haemorrhagic Fevers](#) GL2016_002

6 January 2016 - [Maternity - Fetal Heart Rate Monitoring](#) GL2016_001

Information Bulletins

15 January 2016 - [Changes to Section 100 co-payments in NSW](#) IB2016_001

17 December 2015 - [Pharmaceutical Charges for Hospital Outpatients and Safety Net Thresholds](#) IB2015_068

16 December 2015 - [Fee for Cremation Certificates issued by Salaried Medical Practitioners of Public Hospitals](#) IB2015_067

Northern Territory. Department of Health

19 January 2016 - [More paramedics and ambulances secured with new funding agreement](#) - More paramedics will be employed and new ambulances delivered across the Territory as the result of a new \$149 million, five-year agreement between the Northern Territory Government and St John Ambulance Australia (NT). The additional funding will support St John in preparing for the expected 6 per cent annual growth in service demand, allowing for approximately 55 new staff members, seven new ambulances, two new Station Officer use vehicles and expanded service delivery across the Territory over the life of the five-year agreement.

Queensland. Department of Health

21 January 2016 - [NDIS to bring jobs to the North](#) - The National Disability Insurance Scheme (NDIS) roll out is set to bring hundreds of jobs to Townsville and North Queensland in the disability sector, as well as flow on opportunities in the wider business community. Disability Services Minister and Minister Assisting the Premier on North Queensland Coralee O'Rourke said the NDIS would create around 13,000 disability sector jobs across the state, and North Queenslanders would be well positioned to take full advantage.

21 January 2016 - [Palaszczuk Government to deliver new Roma Hospital](#) - The Palaszczuk Government will build a new public hospital at Roma as part of the \$180 million Enhancing Regional Hospitals program. Premier Annastacia Palaszczuk today visited Roma to announce the major project. "This project is a clear signal that we are committed to building and improving our health services in Queensland no matter where they are located. Initial planning for the new hospital indicates an increase in capacity from 3000 to 3500 patients per year at a cost of around \$70 million. It's expected that the project will deliver more than 250 jobs to the region over the construction period."

21 January 2016 - [Surgery helped by 3D printing](#) - Innovative 3D printing is being used to reduce unnecessary surgeries for complex trauma patients. Princess Alexandra Hospital's Deputy Director of Orthopaedics Dr Nicola Ward, said this 3D approach was changing the way surgeons looked at complex orthopaedic surgery. "Surgical planning involves extensive analysis of each fracture," Dr Ward said. "Using 3D models helps our doctors to visualise complex fractures, and where to place screws and plates to hold bone in position while it heals." Dr Ward said sophisticated imaging technology coupled with the 3D model added a layer of preparation, which could change the outcome for individual patients.

18 January 2016 - [Govt mobilises worker support](#) - Information sessions are being offered to Queensland Nickel workers in Townsville tomorrow as the Palaszczuk Government's rapid response effort ramps up locally.

18 January 2016 - [Queenslanders receive world's smallest pacemaker](#) - Heart patients at Princess Alexandra Hospital are receiving the benefits of the world's smallest pacemaker, which is just one-tenth of the size of a traditional device and doesn't require leads. Director of Cardiac Electrophysiology at Princess Alexandra Hospital (PAH), Dr John Hill said that despite being the size of a large vitamin and weighing less than a coin, the device delivered all the heart rhythm benefits of current devices.

15 January 2016 - [Coal miner's lung disease update](#) - Another case of coal miner's pneumoconiosis has been confirmed. Natural Resources and Mines Minister Anthony Lynham said a 51-year-old electrician who had worked in underground coal mines was the latest case. He is not currently working in the mining industry. A routine pre-employment medical assessment revealed abnormalities which, following further scans and tests, have been confirmed as coal worker's pneumoconiosis by a Brisbane-based respiratory

physician. All coal mine workers are required to undergo a mandatory *Coal Mine Workers Health Scheme* medical assessment prior to the start of their employment and then at least once every five years.

15 January 2016 - **Zika virus risk in Queensland** - While you may have heard of mosquito-borne virus' like dengue fever and malaria, a new disease has hit the headlines. Zika virus is a mosquito-borne disease transmitted to humans via a bite by an infected *Aedes aegypti* mosquito. These mosquitoes are commonly found in tropical and sub-tropical regions around the world, including north Queensland and some areas of central Queensland. Dr Sonya Bennett, senior director of the Communicable Diseases Unit, said Zika virus is currently spreading to many tropical regions globally but has not been found in Queensland.

14 January 2016 - **Action plan revealed on coal miners' health issue** - The Palaszczuk Government today released a five-point plan to tackle an important health issue for the state's past and current coal miners. Natural Resources and Mines Minister and Acting Health Minister Dr Anthony Lynham announced measures to help identify and prevent coal miner's pneumoconiosis, a lung disease caused by long-term inhalation of coal dust in underground coal mining operations. "Protecting the health and safety of workers is a fundamental issue for any Labor Government, and particularly for me as a doctor," Dr Lynham said. "We have confirmed five cases of coal miner's pneumoconiosis in Queensland and I have asked for Queensland Health data on any other possible cases.

Queensland. Office of the Health Ombudsman

21 January 2016 - **December performance data – Office of the Health Ombudsman** - The Office of the Health Ombudsman has released monthly performance data for December.

South Australia (SA). Department for Health & Ageing

21 January 2016 - **Pack safe lunches this school year** - SA Health is reminding parents to pack their children's lunchboxes safely when school goes back next week to prevent harmful food poisoning. Dr Fay Jenkins, Director Food and Controlled Drugs, SA Health, said parents may not realise that everyday lunch items can pose a food poisoning risk if not prepared or stored properly. "This can be particularly problematic in some foods like chicken, fish, meat, certain types of soft cheese such as brie or camembert, milk, cooked eggs and salads."

20 January 2016 - **Draft concept revealed for Veterans' Mental Health Precinct** - Draft design plans for the new \$15 million state-of-the-art Veterans' mental health facility - to be located at Glenside Health Service Campus - have been unveiled. Health Minister Jack Snelling and Minister for Mental Health Leesa Vlahos revealed the plans which will be provided to Veterans' and other interested groups for their feedback, at a joint announcement today. "In August last year the expert working group of clinicians and Veteran representatives recommended that Glenside be home to the new state-of-the-art facility for Veterans' mental health," Mr Snelling said.

Tasmania. Department of Health & Human Services

20 January 2016 - **Key Appointments to lead Northern Cancer Service** - 2016 will be the year the Hodgman Liberal Government puts a renewed focus on the core business of Government, this means a continued investment in better hospital care as well as a focus on keeping people healthy and out of hospital. An important milestone has been reached in our One Health System reforms with the announcement today of Dr Stan Gauden as the Director of the Northern Cancer Service and Grant Smith as Manager of the Service. Both roles are effective immediately. The Northern Cancer Service is an integral part of our plan to deliver a better health system for everyone. It includes the Holman Clinic at the Launceston General Hospital; North West Cancer Centre at the North West Regional Hospital; and the Oncology Unit at the Mersey Community Hospital.

19 January 2016 - **Progress Update – RHH Redevelopment** - With the economy growing and the Budget coming back into the black, the Liberal Hodgman Government is investing the dividends into the core business of government such as health. The \$689 million redevelopment of the Royal Hobart Hospital is progressing with construction works scaling up to prepare the Liverpool Street forecourt for the installation of a temporary inpatient facility. A 130 tonne crane is now onsite with the assembly of the first of the external emergency evacuation stairwells to begin today and the glass canopy to be removed. The

construction of the steel supporting structure and second stairwell at the southern end of the forecourt will follow over the coming weeks.

18 January 2016 - **Northern Hospice forum** - Members of the public are invited to attend a forum this Thursday to have their say on the feasibility of a Northern Hospice in Launceston. Health is a major focus for the Hodgman Liberal Government in 2016 as we continue to build a better health system for every Tasmanian. We understand that with an aging demographic demand for palliative care services will continue to grow. That is why we have funded a Northern Hospice Feasibility study to investigate ways to improve end of life care in Northern Tasmania. The extensive methodology used has included inviting online and written submissions and conducting interviews and meetings with a range of internal and external stakeholders and individuals.

Victoria. Department of Health

22 January 2016 - **Fresh Thinking To Support Victorian Families** - A pop-up playgroup for vulnerable children and a team of parenting coaches are among 13 initiatives to receive grants under the Andrews Labor Government's Maternal and Child Health Service Innovation Fund. At the Kyneton Maternal and Child Health Centre today Minister for Families and Children Jenny Mikakos announced that local governments will receive grants.

21 January 2016 - **Ice Training And Support To Protect Frontline Workers** - A new free online training package will help frontline workers and service providers respond to people affected by ice safely and effectively. Acting Premier James Merlino and Minister for Health, Jill Hennessy, today launched the new \$400,000 training package, which forms part of the Andrews Labor Government's \$45.5 million Ice Action Plan.

Western Australia (WA). Department of Health

Media Releases

20 January 2016 - **Immunise your children before school starts** - The Department of Health is encouraging parents to check that their children's immunisations are up to date as they prepare for the start of the 2016 school year.

19 January 2016 - **Minister for Health and Minister for Regional Development: Hospital design a nod to architectural heritage** - The new look for the Northam Health Service has been unveiled, as part of the State Government's \$500 million Southern Inland Health Service, made possible by the Royalties for Regions program.

18 January 2016 - **Minister for Health and Minister for Regional Development: New look Narrogin hospital to reflect landscape** - The State Government has unveiled the design for the refurbished Narrogin Health Service, part of the \$500 million Southern Inland Health Initiative, made possible by Royalties for Regions.

18 January 2016 - **Meningococcal disease in a young adult** - The Department of Health today reported that a young adult remains in a serious condition after being hospitalised with meningococcal disease. Meningococcal disease is an uncommon, life-threatening illness caused by a bacterial infection of the blood and/or the membranes that line the spinal cord and brain, and occasionally of other sites, such as large joints. The Department of Health has identified the close contacts of the case and provided them with information, and, where appropriate, antibiotics that minimise the chance that the organism might be passed on to others.

Operational Directives (OD)

21 January 2016 - **OD 0651/16 - Clinical and Related Waste Management Policy** - The OD provides the minimum requirements for the management of clinical and related waste generated by WA Health facilities.

21 January 2016 - **OD 0650/16 - Uniform Human Resource Delegations for WA Health Entities** - To provide an updated set of uniform human resource delegations for WA Health.

United Kingdom. Department of Health

21 January 2016 - **Infected blood scheme reform** - Statement to Parliament

21 January 2016 - [Cancer patients join genome sequencing project](#) - News story

19 January 2016 - [Junior doctor contract negotiations](#) - News story

18 January 2016 - [Manchester GPs launch a new 7 day service](#) - Speech

15 January 2016 - [New Permanent Secretary for the Department of Health](#) - Press release

Canadian Medical Association (CMA)

21 January 2016 - [CMA releases important framework to guide a pan-Canadian approach to assisted dying](#) - The CMA recognizes the urgent need to establish a national approach on this issue moving forward in order to provide clarity and consistency for physicians and their patients; this will include continuing to press for improved access to palliative care services for all Canadians.

ABOUT US

Caroline Atkins



Caroline Atkins is the Office Managing Partner for the Canberra office of DLA Piper and has worked extensively in the health sector for Australian Government agencies. Her experience includes the conduct of major technology projects for the health sector, such as in the e-health and aged care sectors, and in advising the Commonwealth on the implementation of policy programs in contractual arrangements (including for medical indemnity insurance and for CSO arrangements for PBS funding). She has also advised the National Blood Authority on major Commonwealth contracts for the supply of blood products including with the Red Cross and CSL. Caroline's commercial experience extends over 30 years and also includes significant experience in ICT outsourcing, whole-of-government technology procurements, intellectual property rights licensing, contract management, procurement strategy and dispute resolution.

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