

AUSTRALIAN JOURNAL OF ADMINISTRATIVE LAW

Volume 12, Number 3

May 2005

FREEDOM OF INFORMATION – Editor: Ron Fraser

FREEDOM OF INFORMATION IN THE UNITED KINGDOM: PUBLIC INTEREST, PREJUDICE AND PRACTICE	153
--	-----

ARTICLES

IMPORTANCE OF ADMINISTRATIVE TRANSPARENCY IN THE CORRECTIONAL CONTEXT: KNOWING THE RULES

Richard Edney

As a class, prisoners are vulnerable to numerous privations while in custody. In particular, prisoners are at a distinct disadvantage in terms of being able to control the central features of their daily lives. The lives of prisoners are circumscribed by numerous rules and regulations and their administration by correctional administrators. It is important that prisoners are aware of the content of the rules that govern their existence and the precise basis upon which power is exercised over them. In a recent freedom of information application in Victoria, a prisoner sought a personal copy of the rules that would govern his life in that particular institution. The prison authorities refused that request. The prisoner then appealed that decision to the Victorian Civil and Administrative Tribunal and was unsuccessful. It is contended that the analysis used in that case was flawed through the misreading of the nature of correctional environment and the fundamental importance of transparency in such a context. 163

CANCELLATION OF STUDENT VISAS

James Ferguson

Government policy requires the mandatory cancellation of overseas students' visas if they experience just one term or semester in which their academic performance is unsatisfactory or their attendance falls below 80%. This policy is short-sighted and contrary to the intention of Australia's Overseas Students Program. While it is reasonable to cancel visas where students are not genuine, current policy and practice is too rigid and is resulting in visa cancellations of genuine students. The difficulties of young people studying in a foreign country are not taken into account. There is no opportunity for a second chance. In many cases the required cancellation process, is not being followed. Visa holders appear frequently not to be given the particulars of the information on which a cancellation will be based or an adequate opportunity to challenge those particulars. There is confusion as to the meaning of appropriate attendance as well as what constitutes satisfactory academic performance. These problems could be rectified by a relatively simple policy adjustment and amendment to the Regulations. 175

CONTINUING DEBATES AS TO SOCIAL SECURITY APPEALS IN AUSTRALIA
AND BRITAIN: DANCING TO THE SAME TUNE?

Lucy Mayes and Phillip A Swain

Since the mid-1990s progress toward reform of the Australian administrative review system has meant legislative, practice and policy changes, and has incorporated consideration of tribunal amalgamation across some jurisdictions, arguably as a step toward improved effectiveness and efficiency. Moves toward similar reform are further advanced in Britain, where changes to key aspects of administrative review processes have already been implemented. This article examines the political, legislative and academic debates which have contributed to developments in administrative review processes in both Britain and Australia, identifying points of similarity and parallel debates between the Australian and British experiences. The article highlights the lack of consumer (appellant) involvement in the changes that have occurred to date, and suggests that in both Australia and Britain it is critical that applicant views be sought in developing administrative review processes. 185

Guidelines for Contributors

Submission and licence agreement instructions

All contributions to the journal are welcome and should be sent, with a signed licence agreement, to the Production Editor, *Australian Journal of Administrative Law*, Lawbook Co., PO Box 3502, Rozelle, NSW 2039 (mail), 100 Harris St, Pyrmont, NSW 2009 (courier) or by email to ajadmin1@thomson.com.au, for forwarding to the Editor. Licence agreements can be downloaded via the internet at http://www.lawbookco.com.au/authorsupport/d_authorJournals.asp. If you submit your contribution via email, please confirm that you have printed, signed and mailed the licence agreement to the attention of the Production Editor at the mailing address noted above.

Letters to the Editor

By submitting a letter to the editor of this journal for publication, you agree that Thomson Legal & Regulatory Limited, trading as Lawbook Co., may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

Manuscript

- Manuscript must be original, unpublished work that has not been submitted for publication elsewhere.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript.
- Manuscript must be submitted electronically via email or on disk in Microsoft Word format.
- Manuscript should not exceed 10,000 words for articles or 1,500-2,000 words for section commentary or book reviews. An abstract of 100-150 words is to be submitted with article manuscripts.
- Proof pages will be sent to contributors. Authors are responsible for the accuracy of case names, citations and other references. Excessive changes to the text cannot be accommodated.
- Contributors of articles receive 25 free offprints of their article and a copy of the part in which the article is published. Other contributors receive a copy of the part to which they have contributed.

Style

1. Levels of headings should be clearly indicated (no more than four levels).

2. Cases:

- Case citation follows case name. Where a case is cited in the text, the citation should follow immediately rather than as a footnote. Give at least two and preferably all available citations, the first listed being the authorised reference.
- Australian citations should appear in the following order: authorised series; Lawbook Co./ATP series; other company series (ie CCH, Butterworths); media neutral citation.
- "At" references should only refer to the best available citation, eg: *Mabo v Queensland [No 2]* (1992) 175 CLR 1 at 34; 66 ALJR 408; 107 ALR 1.
- Where only a media neutral citation is available, "at" references should be to paragraph, eg: *YG v Minister for Community Services* [2002] NSWCA 247 at [19].
- For international cases best references only should be included.

3. Legislation should be cited as follows:

Trade Practices Act 1974 (Cth), s 51AC. The full citation should be repeated in footnotes.

4. Books should be cited as follows:

Macken JJ, O'Grady P, Sappideen C and Warburton G, *The Law of Employment* (5th ed, Lawbook Co., 2002) p 55.

- In footnotes do not use *ibid* or *op cit*. The following style is preferred:
 - 4. Austin RP, "Constructive Trusts" in Finn PD (ed), *Essays in Equity* (Law Book Co, 1985).
 - 5. Austin, n 4, p 56.

5. Journals should be cited as follows:

Odgers S, "Police Interrogation: A Decade of Legal Development" (1990) 14 Crim LJ 220.

Wherever possible use official abbreviations not the full name for journal titles.

- In footnotes do not use *ibid* or *op cit*. The following style is preferred:
 - 6. Sheehy EA, Stubbs J and Tolmie J, "Defending Battered Women on Trial: The Battered Woman Syndrome and its Limitations" (1992) 16 Crim LJ 220.
 - 7. Sheehy et al, n 6 at 221.

6. Internet references should be cited as follows:

Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co., subscription service) at [16.340], <http://subscriber.lawbookco.com.au> viewed 25 June 2002. Underline the URL and include the date the document was viewed.

For further information visit the Lawbook Co. website at <http://www.lawbookco.com.au> or contact the Production Editor.

SUBSCRIPTION INFORMATION

The *Australian Journal of Administrative Law* comprises four parts a year.

Customer Service and sales inquiries:

Tel: 1300 304 195

Fax: 1300 304 196

Web: www.lawbookco.com.au

Email: LRA.Service@thomson.com

Editorial inquiries:

Tel: (02) 8587 7000

HEAD OFFICE

100 Harris Street PYRMONT NSW 2009

Tel: (02) 8587 7000 Fax: (02) 8587 7100



© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

ISSN 1320-7105

Typeset by Lawbook Co., Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW