

Online access to administrative law for the community



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Outline of presentation



1. Context — Basic information about AustLII
2. Aims of AustLII relevant to administrative law
3. Usage of administrative law databases
4. Comprehensiveness of case law
5. Expanding commentary – an opportunity
6. Interconnectivity – LawCite citator
7. Signed & Approved — Indicating reliability of cases
8. Measuring tribunals — Citations and accesses
9. Is an Administrative Law Library needed?
10. Funding free access

1. Context — Basic information about AustLII

1. Independent of government — Operated since 1995 by UNSW & UTS Law Faculties
2. Nearly 550 databases, more than one a fortnight
3. Dominant provider — Over 700K accesses per day more than all government or all commercial services
4. Access to all AustLII data is free & surveillance-free
5. No core government funding — Over 300 annual contributors + grants
6. Automated processing by small staff; no significant editorial capacity
7. Privacy policy on case law — Internet-wide search engines (eg Google) are blocked from AustLII case law

2. Aims of AustLII relevant to administrative law

- **Horizontal (current) comprehensiveness**
 - largely complete for case law (500K), treaties, Acts and Regs;
 - Not yet so for delegated legislation (eg FRLI);
 - largest by far for scholarship (55,000+ articles etc)
- **Vertical (historical) comprehensiveness**
 - nearly complete for Acts; aiming for Dec 2013 completion
 - medium-term aim for all published case law – soon, all 1788-1950; some gaps 1950-90 (maybe 50% from that period)
- **Default approach to interface – ‘best fit’ for all users**
 - A default interface usable by all AustLII’s different audiences
 - There is an AustLII App for most mobile platforms – still generic
- **Offset by development of subject-specific ‘Libraries’**
 - Egs Taxation Law; Aviation Law

3. Usage of administrative law databases

A few examples, from AustLII's 2012 access logs:

- Cth AAT – 461,477
- ACT CAT – 70,606
- NSW ADT – 96,959
- NSW ADTAP – 41,137
- QCAT – 64,070
- VCAT – 859,608
- WA SAT – 93,307

4. Comprehensiveness of case law

- | | |
|---|---|
| <ul style="list-style-type: none"> • Administrative Appeals Tribunal 1976- • Australian Information Commissioner 2011- • 9 other subject-specific Commonwealth tribunals • Cth Ombudsman's Investigation Reports 1996- • ACT Civil and Administrative Tribunal 2009- • ACT Administrative Appeals Tribunal 1993-2009 • 5 other subject-specific ACT tribunals • ACT Ombudsman's Investigation Reports 2006- | <ul style="list-style-type: none"> • NSW Administrative Decisions Tribunal 1999- • NSW Administrative Decisions Tribunal Appeal Panel 1999- • 5 other subject-specific NSW tribunals • NSW Ombudsman Special Reports to Parliament 1999- • NT Anti-Discrimination Commission 1996- • NT Ombudsman Reports to the Legislative Assembly 2002- • 8 subject-specific Tasmanian tribunals |
|---|---|

Comprehensiveness (2)

- | | |
|---|---|
| <ul style="list-style-type: none"> • Qld Civil and Administrative Tribunal 2009- • Qld Civil and Administrative Tribunal Appeals 2010- • Qld Information Commissioner 1993- • 26 previous subject-specific Queensland tribunals • Qld Ombudsman Investigative Reports 2002- • SA Ombudsman FOI Determinations 2012- • SA Ombudsman Reports 2011- | <ul style="list-style-type: none"> • Vic Civil and Administrative Tribunal 1998- • Vic CAT/AAT 1989-1999 • 8 subject-specific Victorian tribunals • Vic Ombudsman Parliamentary Reports • WA State Administrative Tribunal 2005- • 6 subject-specific WA tribunals • NZ Human Rights Review Tribunal Decisions 2002- <p>Total = Over 90 administrative tribunals. What is missing?</p> |
|---|---|

5. Expanding commentary – an opportunity

- New ARC LIEF (infrastructure) grant 2013-14 for the ‘[Legal Scholarship Library](#), Phase II’ - possibilities
 - Already hold [Aust. Institute of Administrative Law Forum 1994-](#)
 - What other key non-commercial journals on administrative law should we aim to obtain? (eg Admin Review?; FOI Review?)
- AustLII has complete sets of over 80 Australian law journals, plus Law Faculty scholarship repositories
 - A ‘virtual database’ of administrative law articles in other journals
 - Could include 2851 journal articles using the phrase “administrative law” – obviously many more; 3431 if add “or freedom of information”; might find 5K
- ‘Australian Judicial Scholarship Database’ is underway
 - Any judicial or quasi-judicial officer in Australia will be able to submit extra-judicial commentary (speeches, journal articles etc)
 - NZLII may build a parallel NZ database
 - Example: [Federal Judicial Scholarship 2012](#)

6. Interconnectivity – LawCite citator

- LawCite provides interconnectivity both within AustLII and with all other collaborating LIIs
- Why LawCite is different:
 - No other citator has all (or even most) of AustLII's caselaw
 - No other citator covers Australia's legal history
 - LawCite's international citation data from most common law countries is more extensive than other citators
 - LawCite is completely automated and so is rapidly updated
- [LawCite](#) Eg Public Service Board of New South Wales v Osmond [1986] HCA 7

7. Signed & Approved – Indicating reliability

- Most Courts & Tribunals do not have 'authorised reports', and many do not publish online themselves
- How can the reliability of online cases be indicated?
- AustLII's new ARC Linkage project will explore this
 - 4 Courts & Tribunals are among the Partner Organisations
- Three proposed uses of terminology:
 - **'Signed'** – by digital signature, watermark or other means
 - **'Approved'** – a source and format of a decision is approved by a Court or Tribunal *issuing* a decision as appropriate to be handed up in that Court or Tribunal
 - **'Accepted'** – a source and format of a decision is accepted by a Court or Tribunal (*other than the one issuing it*) as appropriate to be handed up in that Court or Tribunal

Signed & Approved (2) - Proposals

Three levels of increasing indicators of reliability might be used:

1. **Signed by AustLII**
 - Means: 'This is an unaltered copy received by AustLII on date XX'
 - May be applied by AustLII to any Court / Tribunal decision
 - Any Court / Tribunal may decide to accept AustLII-signed decision
 - Link to check whether AustLII has received a later version [long term, automated]
2. **Signed by AustLII + Approved by issuing Court/Tribunal**
 - Means: 'Court / Tribunal YY approves the handing up of this AustLII-signed copy of its decision'
 - Any Court / Tribunal may decide to accept such Approved decisions
3. **Signed by issuing Court / Tribunal [+ Approved]**
 - Means: 'Court / Tribunal YY has signed this decision on date YY, and approves the handing up of this self-signed copy of its decision'
 - Any Court / Tribunal may decide to accept such Court-signed decisions
 - Link to check if the Court has sent AustLII a later version [long term, automated]

Signed & Approved (3) – Signature mis-matches

- **Why a signed case might no longer match the version on AustLII:**
 1. Lodgment of appeal is now noted on AustLII
 2. Result of appeal is now noted on AustLII
 3. Court has added a headnote or other information
 4. Case report is temporarily withdrawn (eg pending trial)
 5. Original report contained errors, now amended by Court
 6. Original report has been further anonymised by Court
- Initially, checking mechanism will link back to case location on AustLII
- Long-term [if feasible & funded], automated checking mechanism may:
 - Advise if signature still matches as at date of check
 - If no match, provide a new copy of the case report
 - If no match, provide a message (if possible) stating reason

E&OE: All these ideas are as yet tentative, pending research

8. Measuring tribunals — Citations and accesses

- Eg Finding all citations for a tribunal using [LawCite](#)
 - to Cth AAT decisions – see the most-cited
 - to Qld CAT decisions
- Metrics for Courts & Tribunals
 - AustLII project for 2013, for all Courts and Tribunals
 - Database page will link to a 'Metrics Page', automatically providing
 - ✦ Citation records for the Court, including the most-cited decisions
 - ✦ Details of the most-accessed cases, for current year and overall

9. Is an Administrative Law Library needed?

- Is it easy enough to find administrative law in a system as large as AustLII?
- A 'Library' is a means of concentrating subject-specific materials in one searchable location
 - Eg Tax Law; Aviation Law; Indigenous Law; Privacy Law
- 'Virtual databases' extract content on a subject from the whole of AustLII, and are updated automatically
- Libraries can be built and maintained at modest cost
- DEMONSTRATION: **Prototype** of a simple [Australasian Administrative Law Library](#)

10. Funding free access

- ‘Free to use, but not free to build and maintain’
 - AustLII is like a cooperative of users and data providers
- AustLII’s independence comes from having a diverse range of stakeholders – ‘servant of none’
- In 2012 and 2013, 22 Courts and Tribunals were among nearly 300 contributors to AustLII

