



AAT Bulletin

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The *AAT Bulletin* is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions. The Bulletin occasionally includes information on legislative changes that affect the AAT and other important developments.

It is recommended that the Bulletin be read on-line. This has the advantage of allowing the reader to use hyperlinks to access the full text of cases and other internet sites mentioned in the Bulletin.

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AAT Recent Decisions

This section of the Bulletin provides information about decisions recently published by the AAT. Only AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

Compensation

[Todoroska and Australian Postal Corporation](#) [2014] AATA 536; 6/8/2014; Senior Member J Toohey

Hearing loss – claim lodged seven years after applicant ceased employment – whether Act applies – whether applicant gave notice as soon as practicable after she became aware of injury – whether reasonable cause for the delay – whether respondent prejudiced – whether hearing loss related to employment – decision under review affirmed

Freedom of Information

[QFGL and Bureau of Meteorology](#) [2014] AATA 521; 31/7/2014; Deputy President K Bean

Access – allegations made against applicant to his employer – identifiers of complainants redacted – whether documents conditionally exempt – whether disclosure would be contrary to public interest – real likelihood that allegations deliberately false and malicious – possibility that complainants used false identities – potential implication of “innocent” third parties – unreasonable disclosure of personal information – disclosure contrary to public interest – decision under review affirmed, and access to parts of additional documents containing personal information refused

[Sweeney and Australian Information Commissioner & Ors](#) [2014] AATA 531; 4/8/2014; Deputy President JW Constance

Vexatious applicant declaration – whether applicant engaged in access actions – repeated access actions – whether engagement involved an abuse of process for the access action – whether Tribunal should exercise discretion to declare applicant vexatious – importance of right of access to information – decision under review set aside

[Sweeney and Australian Information Commissioner and Australian Prudential Regulation Authority \(Joined Party\)](#) [2014] AATA 539; 6/8/2014; Deputy President JW Constance

Vexatious applicant declaration – whether applicant engaged in access actions – repeated access actions – whether engagement involved an abuse of process for the access action – whether Tribunal should exercise discretion to declare applicant vexatious – importance of right of access to information – decision under review affirmed

Immigration and Citizenship

[C1 and Minister for Immigration and Border Protection](#) [2014] AATA 526; 31/7/2014; Senior Member AK Britton

Application for Australian citizenship – whether the Applicant is of “good character” – Applicant’s criminal history – weight to be given to character references – decision affirmed

[Lui and Minister for Immigration and Border Protection](#) [2014] AATA 544; 8/8/2014; Senior Member E Fice

Refusal of application to become an Australian Citizen – good character requirement – general eligibility criteria – history of offending – decision under review affirmed

[Vellaikuddy and Minister for Immigration and Border Protection](#) [2014] AATA 519; 29/7/2014; Senior Member AK Britton

Application for Australian citizenship – whether the Applicant is of “good character” – Applicant’s criminal history – lack of evidence of good conduct – weight to be given to character references – decision affirmed

National Security

[MYVC and Director-General of Security and Anor](#) [2014] AATA 511; 28/7/2014; Deputy President RP Handley, Senior Member G Ettinger and Senior Member JF Toohey

Adverse security assessment – cancellation of Australian passport – likely to engage in conduct which might prejudice security – correctness, justification for any opinion or information contained in assessment – whether evidence, information, material relied on sufficiently probative to justify assessment – decisions affirmed.

Social Security

[Ayda and Secretary, Department of Social Services](#) [2014] AATA 545; 8/8/2014; Ms R Perton, Member

Disability support pension – whether accepted medical conditions attract 20 points within 13 weeks of the claim – decision affirmed

[Hansen and Secretary, Department of Social Services](#) [2014] AATA 538; 6/8/2014; Ms S Taglieri, Member

Review of decision to refuse DSP; Peripheral Vascular disease, Chronic Obstructive Pulmonary disorder and drug and alcohol abuse disorder; whether permanent; Impairment points available under Impairment Tables; whether there was continuing inability to work, decision under review affirmed

[Mitchell and Secretary, Department of Social Services](#) [2014] AATA 534; 5/8/2014; Senior Member G Ettinger

Pensions – suspension – overpayment – failure to provide information about income and assets – whether applicant had collected, and had control and benefit of pension payments made in the name of two deceased relatives – whether debts to the Commonwealth – whether appropriate to write-off or waive debts – decisions regarding pensions paid in the name of Kenneth Mitchell and Mary Mitchell affirmed – Pauline Mitchell/Crowhurst debt remitted for recalculation – decision suspending pension affirmed

[Peniamina and Secretary, Department of Social Services](#) [2014] AATA 542; 7/8/2014; Senior Member RG Kenny

Pensions, benefits and allowances – claim for disability support pension – relevant date of assessment – posttraumatic stress disorder not fully diagnosed or treated in relevant period – diagnostic requirements for posttraumatic stress disorder – condition not permanent – significance of International Agreement between Australia and New Zealand – Applicant not qualified for disability support pension – decision under review affirmed

[Scrivener and Secretary, Department of Social Services](#) [2014] AATA 537; 6/8/2014; Senior Member RG Kenny

Benefits and entitlements – Applicant in receipt of disability support pension – request for unlimited portability of disability support pension – Applicant not severely impaired – Applicant not prevented from working – decision under review affirmed

[Smith and Secretary, Department of Social Services](#) [2014] AATA 547; 8/8/2014; Senior Member RM Creyke

Disability support pension – whether applicant qualifies for disability support pension – whether applicant attracts rating of at least 20 points under the Impairment Tables – decision under review affirmed

[Underdown and Secretary, Department of Social Services](#) [2014] AATA 543; 7/8/2014; Senior Member RG Kenny

Pension bonus scheme – Late application for registration – Work test not satisfied in two of five test periods – No basis for extension of time – Decision under review affirmed

Taxation

[CDPJ and Commissioner of Taxation](#) [2014] AATA 535; 5/8/2014; Senior Member J Redfern

Income tax – employment termination payment – life benefit termination payment – whether the payment was a transitional termination payment – lump sum payment under a deed – decision affirmed

[Pope and Commissioner of Taxation](#) [2014] AATA 532; 4/8/2014; Deputy President PE Hack

Income tax – deductions – distribution under trust – whether deduction allowable for a bad debt.

Veterans' Affairs

[Dawson and Repatriation Commission](#) [2014] AATA 546; 8/8/2014; Deputy President RP Handley

Disability pension – intervertebral disc prolapse – cervical spondylosis – whether conditions are defence-caused – consideration of relevant Statements of Principles – decision set aside and substituted

[Reid and Repatriation Commission](#) [2014] AATA 548; 8/8/2014; Senior Member RM Creyke

Disability pension – whether hypertension is a war-caused or defence – caused disease – whether there is a causal link between operational service/defence service and alcohol habit and obesity – whether there was a culture of drinking in the Royal Australian Air Force – whether required or reasonably required to drink alcohol – whether induced/expected to drink alcohol – which Statements of Principles were most beneficial for veteran – decision under review affirmed

Appeals

This section of the Bulletin provides information about appeals against AAT decisions that have been lodged or finalised. Only appeals in relation to AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

Appeals lodged

CASE NAME	AAT REFERENCE
Tennant v Australian Broadcasting Corporation	[2014] AATA 452

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Luck v Secretary, Department of Human Services (No 2)	[2010] AATA 6	[2014] FCA 798
Smith v Comcare	[2014] AATA 28	[2014] FCA 811

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