

IN THE ADMINISTRATIVE APPEALS TRIBUNAL)
GENERAL ADMINISTRATIVE DIVISION)
CANBERRA REGISTRY)

BETWEEN

Crispin Rovere

Applicant

AND

Secretary, Department of Education
and Training

Respondent

STATEMENT OF MR ROBERT GRIEW

1. I am employed by the Department of Education and Training (the department) as the Associate Secretary, Higher Education, Research and International. I joined the department on 18 September 2013. Prior to this, I was employed by the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education and have been responsible for Higher Education since 2008.
2. I have worked across the public, private and not-for-profit sectors, for over 20 years in the health and community services sectors. Since 2008, I have worked in the education sector and been responsible for labour market strategy, tertiary education and Indigenous employment programmes. I have a bachelor's degree in health science and education, a master's degree in public health and a graduate economics qualification from the Australian National University. I have been a CEO or deputy CEO for over 15 years.
3. In my current role, I am responsible for the development of policy in regards, and the funding of, higher education, research and international education. My current responsibilities include providing advice to the Minister regarding reform of higher education funding and working closely with the higher education sector to progress the Government's reform agenda. This has included working with representatives from the higher education sector to refine and implement the Government's reforms.
4. Below is my view on the documents subject to this review under the *Freedom of Information Act (1982)*, including my assessment on the consequences of their release. I am authorised on behalf of the department to make this statement.

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Question Time Briefs (documents 3 and 22)

5. Documents 3 and 22 were developed by departmental officers to provide the Minister with talking points and background related to potential questions in parliamentary Question Time. They include possible but not definitive responses to questions that the Minister may receive. They also include background information for the Minister's consideration but which did not form part of the text proposed for the Minister's use in responding to such questions. They comprise advice to the Minister in connection with the Minister's role in responding to questions in the Parliament about his ministry.
6. The documents include the departmental estimates of fee levels in a deregulated market and enrolments. Disclosure of this information, in particular the information regarding fees, would be prejudicial to the operation of a deregulated higher education market for the reasons outlined in paragraphs 35-36 below.
7. To my knowledge, these briefs were not used by the Minister in Question Time.
8. Disclosure of these documents would also have a potential dampening effect on the frankness of advice to be provided in relation to future sensitive policy development for the reasons outlined in paragraph 41 below.

Hypothetical Scenarios (documents 5-10)

9. The Hypothetical Scenarios were developed by departmental officers to illustrate to the Minister (prior to announcement in the budget), the effect of the proposal to index Higher Education Loan Programme (HELP) loans by the bond rate. As this policy was first announced as part of the 2014-15 Budget, these scenarios were considered confidential within the Department and were only provided to a limited number of officials.
10. This analysis was prepared for the advice of the Minister to inform him of the potential impact of the Government's decision to index HELP debts by the bond rate. The scenarios include a number of assumptions including in relation to fees and potential HELP interest rates. For example, this analysis considered potential fees for different types of courses, such as teaching and medicine, as well as different estimates of Government ten-year bond rates and earning by graduates with different characteristics. While these are presented in the document as assumed facts for the purposes of the analysis, and were informed by departmental analysis and research, the figures used were essentially generated by the departmental officers preparing the analysis in order to create the scenarios.

11. Disclosure of these documents, in particular the information regarding fees, would be prejudicial to the operation of a deregulated higher education market for the reasons outlined in paragraphs 35-36 below. In addition, disclosure would have a potential dampening effect on the frankness of advice provided by department officials to the Minister in relation to future sensitive policy development for the reasons outlined in paragraph 41 below.

Assessment of impact of deregulation on regional higher education (document 11)

12. This document was prepared by departmental officers as part of the policy development process prior to the 2014-15 budget. It was designed to inform the Government's decision-making regarding deregulation of student contributions, with a particular focus on the consequences for regionally-headquartered universities. This material was prepared for the advice of the Minister to inform his thinking ahead of further discussions regarding proposals to reform higher education funding.
13. Disclosure of this document could prejudice the operation of a deregulated higher education market for the reasons outlined in paragraphs 35-36 below. In addition, disclosure would have a potential dampening effect on the frankness of advice to be provided by department officials to the Minister in relation to future sensitive policy development for the reasons outlined in paragraph 41 below.

2019 Graduate modelling (documents 13 and 14)

14. These documents were developed by departmental officials to illustrate the effect of the proposal to index HELP loans by the bond rate on an average graduate in a deregulated environment, including the impact on a graduate that took time out of the workforce.
15. These documents were developed for the Minister to inform his thinking, and through this, Government decisions regarding its proposal to index HELP debts by the 10-year Government bond rate. These documents were confidential and formed part of the deliberative process to not proceed with the proposal.
16. Disclosure of these documents, in particular the information regarding fees, would prejudice the operation of a deregulated higher education market for the reasons outlined in paragraphs 35-36 below. In addition, disclosure would have a potential dampening effect on the frankness of advice to be provided by department officials to the Minister in relation to future sensitive policy development for the reasons outlined in paragraph 41 below.

Fee deregulation policy approval (documents 50 and 51)

17. Document 50 was prepared by department officials to provide officials in the Department of Finance with an understanding of the assumptions underpinning the

estimated cost of the proposal to reduce CGS funding and deregulate student contributions. This document was used to finalise advice to Cabinet on the financial impact of the policy proposal.

18. Document 51 is the New Policy Proposal (NPP) to reduce CGS funding and deregulate student contributions and was prepared by departmental officials for Cabinet consideration. This document forms the basis of Cabinet's decision to accept the proposal.
19. Both documents outline the assumptions regarding estimates of average fees and disclosure of these documents would prejudice the operation of the deregulated higher education market for the reasons outlined in paragraphs 35-36 below. In addition, disclosure would have a potential dampening effect on the frankness of advice to be provided by departmental officials to the Minister and Cabinet in relation to future sensitive policy development for the reasons outlined in paragraphs 41 below.

Excel spreadsheets (documents 19, 20, 23-49, 52-56)

20. Documents 19 and 20 were created by departmental officials to provide estimates of possible fees for different types of students, and to illustrate the potential effects of the reforms.
21. Documents 23 to 25 were developed by departmental officials to estimate the cost of the proposal to reduce Commonwealth Grant Scheme (CGS) funding and deregulate student contributions.
22. Document 26 was developed by departmental officials to estimate average student contributions in a deregulated environment. This work was used as the basis for estimating the effect of the policy on the HELP debt, but was not intended to provide a prediction of any specific level of student contribution for a course or a particular institution in a deregulated market.
23. Documents 27 to 34, and 46 were developed by departmental officials to illustrate the effect of the proposal to index HELP loans by the bond rate on different types of graduates prior to the announcement of that proposal in the 2014-15 Budget.
24. Documents 35 and 47 were developed by departmental officials to estimate possible average student contributions in a deregulated environment.
25. Documents 36 to 38, and 44 to 45 were developed by departmental officials to illustrate the cost of the measure to reduce CGS funding by 20 per cent on individual institutions.
26. Document 39 was developed by departmental officials to provide a summary of funding details of higher education teaching and learning programmes.

27. Document 40 was developed by departmental officials to estimate the cost of the proposal to reduce CGS funding and deregulate student contributions.
28. Document 41 was developed by departmental officials to illustrate the potential cost of the proposed reforms on different types of institutions.
29. Documents 42 and 43 were developed by departmental officials in an attempt to estimate the proportion of students that will continue to be funded under the existing arrangements at each institution. Results were used to illustrate potential effects of the reforms on individual institutions.
30. Document 48 was developed by departmental officials to illustrate the effect of the Budget reforms on the share of funding from the Commonwealth and the student.
31. Document 49 was developed by departmental officials to illustrate the effect of the proposal to index HELP debts by the bond rate, with outcomes to be provided to the Prime Minister's Office. Documents 52 to 55 were developed by departmental officials to illustrate the potential cost of reforms on individual institutions.
32. Document 56 was developed by departmental officials to illustrate the effect of the proposal to index HELP debts by the bond rate.
33. In each case, the documents were prepared by making a number of assumptions about relevant parameters such as student population, level of fees for various kinds of university courses at various locations, rates of completion of study and other factors. In each case, while presented as assumed facts and informed by departmental analysis and research, these figures were essentially invented by departmental officials for the purpose of providing material for analysis based on assumed patterns of behaviour. In each case, the purpose of the analysis was to give the Minister, and through him the Government, advice that may help to provide an insight into how the reforms might play out given certain assumptions. The purpose of giving that advice was to assist the Minister and the Government to make decisions about the deregulation of university funding.
34. Disclosure of these documents, in particular the information regarding fees, would be prejudicial to the operation of the deregulation of the higher education market for the reasons outlined in paragraphs 35-36 below. In addition, disclosure would have a potential dampening effect on the frankness of advice to be provided in relation to future sensitive policy development for the reasons outlined in paragraph 41 below.

Consequences of release – information regarding fees

35. There is a very large risk that release of this information would be prejudicial to the operation of the higher education market. Disclosing government modelling on fees would jeopardise the core objective of the reforms – genuine price competition, with

institutions competing with each other to offer the most attractive courses, and students being able to exercise genuine choice.

36. Releasing government estimates of fees would act as a price signal to the market. There are examples of where price signalling by government has led to an unhealthy convergence of price points, rather than choice for students based on different price points. For example, in 2005 the then Government increased the amount universities could charge new Commonwealth supported students (excluding those undertaking nursing or teaching) by 25 per cent, with all universities soon charging the maximum. In the United Kingdom, where the Government increased the cap on fees that could be charged to £9,000, around three-quarters of universities now charge £9,000.

Consequences of release – information provided by Treasury

37. Documents 19-20, 23-34, 39-40, 46-47, and 49 include information provided by the Department of the Treasury. Disclosure of this material is likely to impede important current and future working relationships between Australian Government agencies, thereby prejudicing the delivery of Australian Governments' policy agendas into the future. Obtaining Treasury projections of economic indicators, including indexation rates, is essential to accurately estimating the financial impact of policy proposals and disclosure of this information has the potential to lessen the confidence the Department of the Treasury has in the Department of Education and Training to confidentially manage this information.
38. I am aware that Treasury provided this information expecting that it would be managed confidentially for the benefit of managing spending on higher education, and would not be disclosed publicly.
39. Release of these documents will also reveal sensitive Treasury projections of a number of economic indicators including indexation rates. I believe this could reasonably be expected not only to lead to market disruptions in the higher education sector, but also impact Australian financial markets by revealing what the Government projects its bonds will be worth in the future.
40. Disclosure of this material will also undermine confidence in markets, financial frameworks or institutions by revealing Government projections of the value of its bonds, which will inhibit the ability of the bond market to work efficiently by price signalling to potential investors.

Consequences of release – all material

41. The provision of frank and fearless advice to Government is fundamental to the proper functioning of the public service. I have worked for many years in senior positions in the Australian Public Service and State and Territory public services and would stress the

importance of Ministers being able to request and receive advice without concern for whether the material would later be made public.

42. For the reasons I have outlined above, the release of the material in question has the very real potential to have a number of serious adverse consequences for the operation of the higher education market and the success of the Government's proposed reforms in this area. If that should occur, this would inevitably lead to reconsideration of the nature and extent of advice provided to government in relation to future proposals. I would expect that policy officers would be concerned to avoid prejudicing policy reform work by refraining from providing advice that could have the potential, if disclosed, to undermine the policy work itself.
43. This case demonstrates how legitimate and important advice to government, if publicly disclosed, could have adverse consequences. It is important and valuable for government to have access to modelling and projections across a range of scenarios to assist it to make informed decisions on policy proposals. If policy officers were less inclined to present the full range of projections and analysis in the future, for fear of the consequences of disclosure on the market or on the implementation of the policy itself, then that will be to the detriment of the government's decision-making processes.

Signed by:

Witness

Robert Griew

Print Name: Eleanor Hardy

Date: 27/1/15

admitted as a Barrister and
Solicitor of the Supreme

Filed for and on behalf of the Secretary, Department of Education and Training

Court of South
Australia