ATTACHMENT A – REASONS FOR DECISION

Material taken into account

In making my decision, I had regard to the following:

- The terms of your request;
- The content of the documents to which you sought access;
- Consultation responses from third parties consulted in accordance with the FOI Act;
- Advice from Departmental officers with responsibility for matters relating to the documents to which you sought access;
- The relevant provisions of the FOI Act;
- The Department's guidance material on the FOI Act;
- Guidelines on FOI, available on the Department of Prime Minister and Cabinet website; and
- Advice from the Department's in-house legal team and/or external legal advisers.

Findings of fact and reasons for decision

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that document or part of that document are set out below.

Section 22(1)(a)(ii) - material irrelevant to the request

Section 22(1)(a)(ii) allows an agency to delete irrelevant material from a document which is only partially relevant to an applicant's FOI request. I found documents 60, 186, 192, 193, 217, 220, 252, 346, 367 and 492 in the attached schedule contain material which is irrelevant to your FOI request. I have withheld or deleted that material accordingly.

I have also withheld any document that only contained a list with names of students as you have previously advised that you are not interested in individual students. Where a document contained information in addition to student names, the names have been deleted.

Section 36 – internal working documents

Section 36 exempts a document if it would disclose opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place in the deliberative processes of an agency, where such disclosure would be contrary to the public interest.

Deliberative process

I find that the documents exempted under section 36 would, if disclosed, disclose opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place in the deliberative processes of an agency. The documents contain deliberative advice to the Minister on the MRBS Scheme as well as internal policy discussions between Departmental officers.

Public interest

<u>Section 36</u> also requires that disclosure of the document must be contrary to the public interest before the exemption applies.

In considering this issue, I have taken into account the following public interest factors in favour of and against disclosure:

Factors in favour of disclosure

- a. The interest in upholding the right of access to documents expressed in sections 3 and 11 of the FOI Act. Section 3 makes clear that the object of the Act is to extend as far as possible the right of access to documents, subject to protecting essential public and private interests. Section 11 guarantees every person a right of access to documents;
- b. The interest in promoting governmental accountability and transparency;
- c. The interest in facilitating participation in the democratic process through the disclosure of documents in the possession of government.

Factors against disclosure

- a. The interest in preserving the efficient and proper functioning of government;
- b. The interest in protecting the integrity of the decision making process by separating the final decision making policy from the opinions and advice of the officials who contributed to the consideration;
- c. The ongoing nature of developing the MRBS Scheme.

In my view, in relation to these documents, the factors against disclosing the deliberations about the policy of the MRBS scheme outweigh the factors in favour of disclosure Accordingly, I am satisfied that the documents are exempt under section 36.

Purely factual material

I have considered whether the documents contain purely factual material. To the extent that they do, no claim for exemption is made under section 36.

Excluded reports

I have also considered whether the documents contain reports of scientific or technical experts, reports of a prescribed body or organization, or the record or reasons for a final decision given in the exercise of a power or adjudicative function. To the extent that they do, no claim for exemption is made under section 36.

Section 41 – documents affecting personal privacy

Section 41(1) exempts a document if its disclosure would involve the unreasonable disclosure of personal information about any person.

Personal information

Personal information is defined in section 4 of the FOI Act as

Information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an

individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

The elements of 'personal information' are:

- i. it relates only to a natural person (not, for example, a company);
- ii. it says something about the individual;
- iii. it may be in the form of an opinion, it may be true or untrue, and it may form part of a database; and
- iv. the individual's identity is known or is reasonably ascertainable using the information in the document.

For those documents where section 41 is claimed, I have found that the information is personal information, and on this basis I have excluded names and contact details of persons outside the Department in documents. Please note I have not excluded the names of any Departmental Officers.

Disclosure unreasonable

If information is personal information, it will be exempt if disclosure would be 'unreasonable'. There are a range of factors in deciding whether or not disclosure would be unreasonable, including:

- i. the nature of the information, i.e. it should not be bland or common place;
- ii. the circumstances in which the information was obtained;
- iii. the current relevance of the information:
- iv. the stated object of the legislation in section 3 of the Act being to facilitate and promote the disclosure of information;
- v. the extent to which the person is a public figure;
- vi. the extent to which the information is already a matter of public knowledge;
- vii. whether there was any expectation of confidentiality; and
- viii. whether the information would shed light on the workings of government.

I find that disclosure of the documents exempted under section 41(1) would involve unreasonable disclosure of personal information. Release of the personal information would be unreasonable because it was obtained as part of the ongoing administration of the MRBS Scheme. Third parties have also objected to the release of personal details of staff members.

Accordingly, I am satisfied that the documents are exempt under section 41.

I have considered whether any of the documents contain personal information about you. To the extent that they do, no claim for exemption is made under section 41.

Section 42 – documents subject to legal professional privilege

Section 42(1) exempts a document if the document would be exempt from production in legal proceedings on the ground of legal professional privilege.

A document is exempt from production on the ground of legal professional privilege if all of the following apply:

- i. there exists a solicitor-client relationship;
- ii. there have been confidential communications which are recorded in the document;

- iii. the communications were for the dominant purpose of providing legal advice or in the context of actual or anticipated legal proceedings; and
- iv. the privilege has not been waived.

I find that disclosure of the documents exempted under section 42(1) would involve disclosure of documents that would be exempt from production in legal proceedings on the ground of legal professional privilege.

Solicitor-client relationship

The Department has sought legal advice from both the Legal Services Branch within the Department and from the Australian Government Solicitor for matters relating to the administration of the MRBS Scheme.

Confidential communications

The documents to which the exemption has been applied contain communications made in the context of the solicitor-client relationship. They were made on the understanding that the usual and well-established relationship of confidence between a solicitor and a client governed the communication. The communication was not provided outside of that context at the time of communication.

Dominant purpose

The communications were made for the dominant purpose of legal advice. They comprise correspondence from Departmental staff to lawyers requesting advice, and the responses of the lawyers providing that advice.

No waiver

There is no evidence to indicate that the substance of the communications has been disclosed more broadly, or used in any way that would be inconsistent with maintaining the confidentiality in the communications.

Accordingly, I am satisfied that the documents are exempt under section 42.

I have considered whether any of the documents consist of manuals or other decision-making materials referred to in section 9(1), containing material used or to be used for the purpose of making decisions or recommendations of the kind referred to in section 9(1) of the FOI Act. To the extent that they are, no claim for exemption is made under section 42.



Australian Government

Departmen	Department of Health and Ageing	Sing						
FOI Doc No	File No.	Folio	Date	Author	Addressee	Description of Document	Decision	Portion exempted
318.	2000/066522	18-21	15/12/00			Fax to James Cook University re the MRBS Scheme	æ	
320.	2000/066522	22-25	15/12/00			Fax to Monash University re the MRBS Scheme	ч	
321.	2000/066522	26-29	15/12/00			Fax to the University of Melbourne re the MRBS Scheme	8	
322.	2000/066522	30-33	15/12/00			Fax to the University of Newcastle re the MRBS Scheme	œ	
323.	2000/066522	34-37	15/12/00			Fax to the University of Queensland re the MRBS Scheme	œ	C18
324.	2000/066522	38-41	15/12/00			Fax to the University of Tasmania re the MRBS Scheme	œ	50
325.	2000/066522	42-45	15/12/00			Fax to the University of Western Australia re the MRBS Scheme	œ	
326.	2000/066522	46-49	15/12/00			Fax to Flinders University re the MRBS Scheme	c	
327.	2000/066522	50-51	21/12/00			Fax to the Committee of Deans of Medical Schools re the MRBS Scheme	RD S36	One line, paragraph 6, folio 50
328.	2000/066522	51-63	21/12/00			Fax confirmation reports	œ	
329.	2000/066522	64	13/12/00			Email re correct name of DETYA	æ	
330.	2000/066522	65	13/12/00			Email from DETYA re list of universities	œ	
331.	2000/066522	99	13/12/00			Email from DETYA re draft letter to the Deans of medical schools	œ	



COMMONWEALTH OF AUSTRALIA

GPO Box 9848, Canberra ACT 2601 Telephone (02) 6289 1555, Facsimile (02) 6281 6946 ABN 83 605 426 759



DOC 3297

Facsimile

Date:

21 December 2000

Total pages: 2

TO:

Committee of Deans of Medical

Telephone:

Schools

Attention: Regarding:

Facsimile: Medical Rural Bonded Scholarship

Scheme

FROM:

Christianna Cobbold

Telephone:

(02) 6289 5791

Branch/Div.:

Health Capacity Development

Facsimile:

(02) 6289 1352

Branch / Health Industry and

Investment Division

If you do not receive all pages, please telephone the sender immediately

MESSAGE:

Committee of Deans of Medical Schools

Further to my letter of Friday 15 December regarding the Medical Rural Bonded Scholarship Scheme, issues have been raised by Deans and Scholarship contacts regarding the clarity of the letter, particularly in relation to DETYA funding arrangements. Following discussion with DETYA, I am able to advise the following. I trust the following information will address the issues raised.

An important point relates to the funding arrangements for this Program. This program is ongoing and the medical places are fully funded DETYA places. On the whole, DETYA will manage the funding arrangements for the program through the usual arrangements for medical school places - ie funding according to aggregate numbers enrolled and other usual criteria. Liaison with Universities regarding the funding arrangements will take place through the Profile discussions.

In this sense the Program is quite dissimilar to the Program for 100 places in medical school for overseas trained doctors, whereby medical school places are funded directly by the Department of Health and Aged Care according to specific particular program guidelines.

Specific details regarding funding arrangements which have been raised by Deans are outlined below

CENSORED BECUASE IT IS CONTARY TO THE PUBLIC 'INTEREST', SEE C170 FOR THE UN -CENSORED VERSION

Paragraph 5 of the letter of Friday 15 December reads:

It is important to note that no extra funding will be provided for the enrolment in Medical Rural Bonded Scholarships of extra students to replace those who withdraw from the Scholarship.

Feedback has noted that this sentence may be unclear. The following para explains this more clearly:

The students who replace those who withdraw from the course will be fully funded for the entire course. DETYA have indicated that, depending on the attrition rates, the process for replacing students who withdraw may need to be reviewed in several years to ensure that funding is maintained within the total appropriated for the Scheme in the budget.

The letter of Friday 16 December notes that the university will need to cancel the enrolment in medicine of students who withdraw from the Scholarship.

The issue has been raised of whether it may be possible for Universities to fund the enrolment of students who withdraw from the Scholarship from a non-DETYA source. The Commonwealth could not agree to this,

encouraging special initiatives (such as the Medical Rural Bonded Scholarships) to deliver more doctors to rural communities.

Also, the question has been posed of whether funding will be provided for students who
fail a year. DETYA have advised that the same rules will apply to funding for the
Scholarship places of students who fail subjects within the course and/or years of the
medical course, as apply to funding for usual medical student places.

Please contact Stanford Harrison on (02) 6289 8996 if you have any queries about this fax.

I am pleased to convey that the contracts were sent out to the University Medical Rural Bonded Scholarship contacts yesterday. Thus progress is well on track towards implementation of this Scheme in 2001. Thank you again for your part in this process.

Yours sincerely
Charles lander last of the

Christianna Cobbold Assistant Secretary

Health Capacity Development Branch

2g December 2000





Health and Aged Care

COMMONWEALTH OF AUSTRALIA

GPO Box 9848, Canberra ACT 2601. Telephone: (02) 6289 1555, Facsimile: (02) 6281 6946 ABN 83 605 426 759

Facsimile

Date:

21 December 2000

Total pages: 2

TO:

Committee of Deans of Medical

Telephone:

Schools

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Facsimile:

Regarding:

Scheme

FROM:

Christianna Cobbold

Telephone:

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Branch/Div.:

Health Capacity Development

Facsimile:

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Branch / Health Industry and

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In this sense the Program is quite dissimilar to the Program for 100 places in medical school for overseas trained doctors, whereby medical school places are funded directly by the Department of Health and Aged Care according to specific particular program guidelines.

Specific details regarding funding arrangements which have been raised by Deans are outlined below.

THE DHA CONFIRMS THERE ARE ONLY **DEYTA FUNDED PLACES**

'Special schemes' that in fact are aimed at place work placing restrictions see C175. Document C175 was left out all together from the DHA

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Feedback has noted that this sentence may be unclear. The following para explains this more clearly:

The un-censored document. (compare to C160)
The DHA found it was contrary to the Public interest to know the DHA were in reality trying to contain the number of medical students

The students who replace those who withdraw from the course will be fully funded for the entire course. DETYA have indicated that, depending on the attrition rates, the process for replacing students who withdraw may need to be reviewed in several years to ensure that funding is maintained within the total appropriated for the Scheme in the budget.

The letter of Friday 16 December notes that the university will need to cancel the enrolment in medicine of students who withdraw from the Scholarship.

The issue has been raised of whether it may be possible for Universities to fund the enrolment of students who withdraw from the Scholarship from a non-DETYA source. The Commonwealth could not agree to this, as this would add to the overall number of medical students graduating. As you know, the Commonwealth is working towards containing the overall numbers of medical students graduating, while encouraging special initiatives (such as the Medical Rural Bonded Scholarships) to deliver more doctors to rural communities.

• Also, the question has been posed of whether funding will be provided for students who fail a year. DETYA have advised that the same rules will apply to funding for the Scholarship places of students who fail subjects within the course and/or years of the medical course, as apply to funding for usual medical student places.

Please contact Stanford Harrison on (02) 6289 8996 if you have any queries about this fax.

I am pleased to convey that the contracts were sent out to the University Medical Rural Bonded Scholarship contacts yesterday. Thus progress is well on track towards implementation of this Scheme in 2001. Thank you again for your part in this process.

Yours sincerely

Christianna Cobbold

Assistant Secretary

Health Capacity Development Branch

20 December 2000

I have left a message for

Atom ford Harman about this

BY 9 MARCH



COMMONWEALTH OF AUSTRALIA

Health Services Improvement Division GPO Box 9848, Canberra ACT 2601 Telephone: (02) 6289 3132 Fax: (02) 6289 8600 ABN 83 605 426 759 Health and Ageing

Professor Gavin Brown
Vice Chancellor and Principal
University of Sydney
A 14 The Quadrangle
The University of Sydney
NSW 2006

Dear Professor Brown

Bonded Medical School Places

THIS DOCUMENT SHOWS THE REAL PURPOSE WAS TO PLACE WORK PLACE RESTRICTIONS ON 20% or HECS PLACES, NOT PROVIDE RURAL SERVICES.

THIS DOCUMENT WAS NOT RETURNED AT ALL BY THE CTH FOI,

RATHER IT WAS OBTAINED FROM THE UNIVERSTIY OF SYDNEY UNDER FOI WORK PLACE RESTIRCTIONS ARE DRESSED UP UNDER NAMES SUCH AS BMP AND MRBBS.

I am writing regarding the implementation of the Bonded Medical Places (BMP) Scheme.

As you are aware, as part of the MedicarePlus initiatives the Government has provided funding to enable an increase in the national medical school intake by 234 places, commencing in 2004. The allocation of the additional medical school places to each university was jointly determined by Senator the Hon Kay Patterson MP, the former Minister for Health and Ageing, and the Hon Dr Brendan Nelson MP, Minister for Education, Science and Training.

Through this process the University of Sydney was allocated, and accepted 27 BMP to be filled in 2004. As detailed at the time of allocation around 80% of total HECS funded medical places offered at each medical school continue to have no restrictions on where the doctor concerned can work.

As the Government has given a commitment to fill all of the new Bonded Medical Places in 2004 I am seeking an assurance that all of the BMP allocated to your University will be filled for the start of the 2004 study year.

If you are unable to fill all of the places allocated to your University early notification of this is required to enable reallocation of the places to another University. Any such places will be reallocated on a permanent basis, resulting in a reduction in the first year allocation for the medical school(s) concerned from 2005. I am also seeking expressions of interest from Universities regarding the number of additional BMP that they would be able to accept, for the 2004 and future academic years, if there was a need to reallocate any of the 234 Places.

I would anticipate that if places are transferred to another University then the balance of HECS places to places with service obligations would be maintained (ie 80% HECS unbonded places/20% service obligation places) from 2005 onwards.

Please advise Ms Alison Killen of the above information before COB 9 March 2004.

Yours sincerely

Bob Wells

First Assistant Secretary

Health Services Improvement Division

1 March 2004

Cc: Professor Andrew Coats

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