



Tuition Protection Service

Possible changes to the risk rated premium component of the Tuition Protection Service Levy

Background

Following consultation with the sector and the advice of the Tuition Protection Service Advisory Board (the Board), the TPS Director finalised the TPS levy settings for 2020 on 17 December 2019. (See [Education Services for Overseas Students \(TPS Levies\) \(Risk Rated Premium and Special Tuition Protection Components\) Instrument 2019](#))

The 2020 TPS levy settings made changes to the risk factors 1, 2 and 3:

- *Payment in arrears* was renamed to *Base risk factor* and a uniform risk score of 1 applies to all non-exempt providers;
- *Length of operation* – reducing the scope of this risk factor to the first two years of operation from five years as well reduction of risk scores; and
- *Volatility in overseas student enrolments* – reducing the exemption from five years to two years of operation and changes to the risk scores to provide a more graduated approach.

No changes were made to risk factors 4 and 5 (*Maximum overseas source country concentration* and *Non-compliance history*). Additionally, no changes were made to the specified percentage rate (remaining at 0.07 per cent) or the special tuition protection component (to remain at zero).

In 2019, the TPS and the Board undertook a comprehensive review of all levy settings, including risk factors, as these had not changed significantly since their inception. As part of the review, the Board noted that while the risk factors for the risk-rated premium of the levy remained consistent with its agreed principles, there was scope to consider some adjustments to risk factors and associated risk scores. The Board also agreed that changes to the levy framework, including risk factors and risk scores, may be implemented over two years, providing an opportunity to have discussions and consultation with the sector about further proposed changes.

In particular, the Board noted that while there was also strong data to support changes to the *non-compliance history* risk scores and risk by sector, the Board decided that these more significant changes should be considered over a longer time to allow for appropriate consultation.

Your views on further possible changes to the risk rated premium

The TPS and the TPS Advisory Board value feedback from the sector, peak bodies and individual providers on the risk settings for the TPS Levy. As a result, the TPS is seeking the sector's early views on opportunities for further changes to the risk rated premium component of the TPS Levy for 2021 and beyond.

Risk by sector

Current risk factor

Risk factor 1, the *Base risk factor*, currently applies to all non-exempt providers, with a uniform risk score of one (1). This is the base risk factor, for which a risk score or risk weight is applied to all the non-exempt providers.

Considerations

The TPS is interested in views on whether this factor could be used to differentiate providers based on their sector of operation, depending on the historic risk of provider failure in the sector. For example, there may be an argument that as the vast majority of provider defaults have occurred in the VET sector (where the TPS has visibility, more than 85 per cent of provider defaults operated in the VET sector), it might be more appropriate if VET providers attracted a higher base risk factor score.

Equally, there might be an argument that it is not appropriate for all providers in a particular sector to have the same base risk score as it fails to distinguish providers between lower-risk and higher-risk providers. There is also the issue of how a provider which offers courses in multiple sectors should be treated.

Discussion Questions

1. Do you think it is appropriate to have a differentiated risk score rather than a uniform risk score for this risk factor?
2. If so, how should lower-risk providers be treated within a higher-risk sector? How to ensure that good and very low risk providers in a higher-risk sector are not unduly disadvantaged? You may wish to offer some suggestions on mitigation strategies, if any.
3. How to cater for multi-sector providers? For example, should a provider's base risk score be determined by 'main course sector' (by national regulator), by 'main CoE sector' (sector with most CoEs for a provider) or should it be weighted according to the proportion of CoEs across the sectors?

Non-compliance risk

Current risk factor

Risk factor 5, *non-compliance history*, currently relates to:

- either a late payment;
- or where the provider has been sanctioned for non-compliance under section 83 of the ESOS Act.

While data shows there is a strong correlation between non-compliance and provider failure – approximately 50 percent of provider failures are the result of regulatory action – there have been limitations in using these sanctions for this risk factor. As a result, this risk factor has mostly been applied up to now to late payments rather than s83 sanctions, following findings of non-compliance by the regulator.

Considerations

The TPS is considering how to better capture provider non-compliance for the purposes of application of this risk factor. There are challenges using s83 sanctions in terms of the administrative and legal review process that providers are entitled to following a regulator decision. This means that the final outcome of s83 sanction might not be confirmed until a significant time (sometimes years) after the initial finding by the regulator or section 83 sanctions may be replaced by AAT related conditions etc.

Alternatively, it might be possible to consider other measures of non-compliance, including for example where a regulator imposes conditions on a provider's renewal or grants for a lesser period than the maximum allowed under the Act.

Discussion questions

4. What, if anything, should be the threshold for significant non-compliance?
 5. What sort of significant non-compliance is most relevant to risk? How strongly should it be scored in a risk score? How long should this risk score apply?
 6. Could a risk score be applied to a provider being granted less than the maximum allowed period for registration by a regulator? Are such conditions imposed by regulators a sign of non-compliance or some other concerns about a provider?
 7. How could a non-compliance be captured? Should it only be considered has having occurred only once all reviews (AAT, courts) have been exhausted? If so, this would create a significant lag and may not be practicable or achievable. If not, how could a finding of non-compliance be separated from an actual sanction?
 8. What, if any, other risk factors should the TPS consider? Please note the risk factors should be quantitative and not subjective.
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Please provide any comments you may have

The TPS welcomes the industry's feedback and insights. The TPS looks forward to your responses to these discussion questions across both issues. Your responses will be considered by the TPS Advisory Board as it formulates its advice to the TPS Director for the 2021 levy.

Please provide your feedback by 17 April 2020 to operations@tps.gov.au