

# Appendix 5—Tuition Protection Service Annual Report

## Introduction

Based on the requirements set out in the *Education Services for Overseas Students Act 2000* (ESOS Act), this report provides a summary of the activities of the Tuition Protection Service (TPS) from 1 July 2013 to 30 June 2014. It also includes an assessment of issues affecting the operation of the TPS, the outlook for the year ahead and any potential risks to the Overseas Students Tuition Fund.

## The Tuition Protection Service

The TPS is an initiative of the Australian Government to assist and support international students on student visas whose education providers are unable to complete the delivery of their course of study.

The TPS is a universal, single-layer tuition protection scheme created in response to a key recommendation of the February 2010 report *Stronger, Simpler, Smarter ESOS: Supporting International Students*. The service strengthens tuition protection by offering alternative placements (or refunds as a last resort) to students affected by a provider default.

The TPS may also assist where international students have either withdrawn from or not started their course and are eligible for a refund of tuition fees that has not been paid by the provider.

The operations of the TPS are funded through an annual TPS levy, which is paid by all Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) providers. The revenue collected through the TPS levy is paid into the Overseas Students Tuition Fund.

## Governance

The TPS governance framework consists of the statutorily appointed TPS Director and a 12-member TPS Advisory Board. The primary functions of the TPS Director are to place and/or provide refunds to international students in accordance with the ESOS Act requirements; report to the Minister on the operations of the TPS and Overseas Students Tuition Fund; manage the TPS to ensure it meets its liabilities; and make a TPS levy legislative instrument each year.

The board's role is to provide advice to the TPS Director each year on the settings of the annual TPS levy for the following calendar year.

The board is chaired by Mr Peter Grant PSM, who was previously a deputy secretary with the Department of Employment, Education, Training and Youth Affairs between 1997 and 2001 and Chair of the Contributions Review Panel from 2006 until the panel was replaced by the TPS Advisory Board in 2012.

The board members include representatives from all areas of the international education sector—higher education, vocational education and training, schools, English language intensive courses and TAFE colleges. The members were appointed on the basis of their qualifications and extensive experience.

## FEATURE STORY

The board's work is guided by the following principles (adopted by the board at its first meeting and further endorsed in 2014):

- ▶ advice provided to the TPS Director should reflect the overall risk environment and ensure that revenue matches what is needed to sustain the Overseas Students Tuition Fund, while also being sustainable for the industry
- ▶ the model for the TPS levy should, as far as possible, reflect gradual change and assist the industry with business planning by providing a stable regulatory environment
- ▶ the model should be as simple and transparent as possible, preferably based on a small number of risk factors
- ▶ risk premiums imposed should provide incentives for providers to adopt positive behaviours
- ▶ additional imposts on industry, such as data collection, should be minimised as far as possible.

The National Commission of Audit, established by the Australian Government as an independent body to review and report on the performance, functions and roles of the Commonwealth government, has recommended a review of the role of a large number of statutory bodies including the TPS Advisory Board. The timing and scope of this review is currently under consideration.

## Operation of the Tuition Protection Service

### Assistance to students

Over the 12 months to 30 June 2014, there was one provider closure, which displaced 161 students and required the activation of the TPS.

During this same period 82 calls were made on the Overseas Students Tuition Fund and 94 assessments of the calls were completed, at a cost of \$187,266 (a number of these assessments relate to calls made in previous years).

## The TPS in action

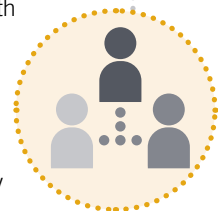
The TPS was activated on the unexpected closure of a Sydney-based college providing English language intensive courses for overseas students (ELICOS) which affected 89 students. The students, most of whom were under 18 years of age, arrived one morning to find the college closed. The TPS was informed of the college closure by the liquidator at the same time.

Informing the parents and/or guardians and ensuring the students' welfare was the first priority. The TPS managed this with assistance from the New South Wales Board of Studies.

The TPS liaised with a number of nearby providers to find suitable courses for the students to quickly transition into, enabling them to finalise their English language training in time for starting high school.

To this end the TPS, working with a range of stakeholders including the New South Wales Board of Studies, English Skills Australia, the Australian Skills Quality Authority, relevant embassy officials and the Department of Immigration and Border Protection, successfully assisted the students to find a suitable alternative placement within two to three working days of the closure or paid them a refund of their unspent tuition.

The successful management of this incident demonstrates the breadth of support that can be marshalled at short notice to assist international students in Australia when something unexpected occurs.



Regulatory action by the Australian Skills Quality Authority (ASQA) and the Tertiary Education Quality and Standards Agency (TEQSA) led to a number of course closures (where one or more courses are cancelled but the provider continues to operate). The TPS supports providers to meet their obligations to affected students and stands ready to provide assistance where necessary. All students affected by course closures have either been placed in an alternative course or paid a refund of their unspent tuition fees.

The TPS Director is assisted in his role of placing and providing refunds to students by the TPS Administrator. PricewaterhouseCoopers is currently engaged to provide the TPS Administrator services; it is contracted to case manage provider defaults and student claims. The original contract for service ran for two years between July 2012 and July 2014 and has been extended for a further year until July 2015. There is a final option to extend for a further year to 2016.

## 2014 Tuition Protection Service Levy: settings and collection

After receiving advice from the board and with the approval of the Treasurer, the TPS Director makes a determination each year specifying the settings for the TPS levy to be collected from Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) providers in the following year.

The board met four times during 2013–14. During its meetings the board invites key stakeholders to share knowledge about current and future risks, requests and considers actuarial advice, assesses the impact of government policy and shapes the advice to be given to the TPS Director regarding the TPS levy settings.

The board provided its advice on 18 October 2013, after which the TPS Director met with a range of stakeholder groups including Universities Australia, the Independent Schools Council of Australia, the Australian Council of Private Education and Training, TAFE Directors Australia and the Council for Private Higher Education to seek their views on the levy settings for 2014.

Among other things, these consultations sought feedback on the idea of activating, for the first time, the special tuition protection component of the levy. This component is designed to be activated in times of market buoyancy in order to build a strategic reserve in the Overseas Students Tuition Fund in preparation for the sector experiencing more difficult and challenging circumstances—such as occurred in 2008–2011, which saw a significant downturn in the international student market as the result of a number of converging factors including the effects of the Global Financial Crisis.

Although there had been signs of regrowth in some parts of the sector since 2011, conditions remained variable and overall growth was not considered sufficiently robust to warrant activation of the special tuition protection component at this time.

Based on advice and recommendations from the TPS Advisory Board, as well as the outcome of consultations with peak sector representatives, the TPS Director made the 2014 legislative instrument (F2013L02176) on 20 December 2013. The text of the determination can be found at [www.comlaw.gov.au](http://www.comlaw.gov.au).

Apart from small increases due to indexation, the levy settings in 2014 remained the same as they had been in 2013. In 2013, \$5.98 million was collected; in 2014 the amount collected was \$6.52 million.

The collection of the levy progressed smoothly, with no significant issues raised by CRICOS providers or peak sector bodies. As required, providers declared their international student tuition fee income for 2013 by the end of March 2014. The 2014 TPS levy invoices were sent to providers on 23 April with a due date for payment of 16 May 2014. By 30 June 2014, most of the providers had paid the levy.

## Working with stakeholders

The TPS is part of the international education sector's broad regulatory and consumer protection framework. The TPS Director engages and works cooperatively with a range of stakeholders to help maintain and improve Australia's world-class international education sector.

The TPS has been proactive in working with providers, regulators and peak sector bodies, as well as state government agencies such as Western Australia's International Student Counsellor and South Australia's Office of the Training Advocate.

Open and frequent communication across the sector has enabled the TPS to obtain early advice on emerging issues. Taking the initiative to get in contact with providers facing closure has enabled smoother, better managed closures and early support to students. This pre-emptory action by the TPS has also helped to keep claims to a minimum.

Each closure, depending on its circumstances, usually requires the input and collaboration of a number of agencies including state and territory governments, the Department of Immigration and Border Protection, ASQA and TEQSA. To assist in the effective coordination of closures, the TPS drafted 'closure protocols', which were endorsed by all parties and have since proven to be useful in clarifying roles and responsibilities during the busy hours and days that follow an unexpected closure.

The TPS has memorandums of understanding (MoUs) in place with ASQA and TEQSA which set out communication protocols and how the parties will work together at times of regulatory action and provider closures. The TPS also has an MoU in place with the Overseas Students Ombudsman and works closely with the office to address complaints received from international students about a range of issues related to their CRICOS provider. The TPS offers assistance if the provider has failed to meet their obligations in relation to a provider or student default. During the year, 40 complaints were referred to the TPS for investigation, of which 37 have been finalised and three are the subject of ongoing investigation as at 30 June 2014.

These close working relationships ensure the TPS is able to react to regulatory action in a proactive and constructive manner to achieve good outcomes for students.

The TPS Service Charter, designed for students and other stakeholders in the international education sector, sets out service standards, communication protocols and decision review options. It can be found on the TPS website at [tps.gov.au/StaticContent/Get/ServiceCharter](http://tps.gov.au/StaticContent/Get/ServiceCharter).

## The deregulatory agenda

A review of the Education Services for Overseas Students legislative framework is being conducted by the department; this has provided an opportunity to review and streamline TPS-related regulatory requirements.

The TPS Director consulted with peak sector representatives in November and December 2013 and with education providers during the TPS levy information sessions held in February 2014 to seek their input and feedback about TPS operations and what could be improved in terms of reducing or streamlining regulation.

A number of issues were raised but those of most concern to providers were the requirement that no more than 50 per cent of pre-paid fees may be collected before a student commences their course; the requirement that providers must report student defaults within fairly short timeframes; and concern regarding the ease with which students can change institutions after just six months of being in Australia.

The useful insights, feedback and suggestions have been fed into the department's review. Specific proposals for streamlining parts of the legislative framework will be the subject of further consultation with the sector.

### Building sustainability

During its second year, the TPS has focused on consolidating its financial position.

Collection of the TPS levy occurred during May and June, with \$6.52 million being collected in total. Currently, due to a relatively benign environment (few closures and only small numbers of students affected), and proactive and prudent management of potential claims, some \$12 million has been accumulated in the Overseas Students Tuition Fund. This is a significant way towards the short- to medium-term target set by the board to reach a reserve of \$20 million by the end of 2016.

Until an adequate reserve of between \$20 million and \$50 million has been accumulated, the TPS remains vulnerable to a sudden and unexpected increase in claims. The board is well aware of this risk, and consideration of re-insurance over the short term was recommended. Re-insurance arrangements, with support from the board, have been negotiated by the TPS Director and took effect from 1 July 2014. It is anticipated that re-insurance will only be required over the short term until adequate reserves are built in the Overseas Students Tuition Fund.

## Outlook for the year ahead

After a sustained and continuous decline in enrolments from 2009 to 2012, there were signs of modest growth during 2013, particularly in higher education.

International student data indicates growth in total enrolments and commencements of 9.6 and 18.1 per cent respectively when comparing year to date April 2013 and year to date April 2014. The growth in ELICOS college commencements of 23.1 per cent over the same period, which is likely to include students proceeding to study in higher education and vocational education and training (VET) courses later in 2014, is encouraging. The sector appears to be moving into a positive period of renewal and growth. While the future looks promising we cannot assume that growth or stability will continue and we must therefore be prepared for all potential circumstances.

A number of changes to policy settings and regulatory frameworks, both immigration and education related, will be important considerations for the TPS in the year ahead.

**1**

Streamlined student visa processing (SVP) arrangements, under which eligible student visa applicants from participating universities are assessed as though they are a lower immigration risk, were extended in March 2014 to include a number of private higher education providers.

The Government has since announced the further extension of SVP arrangements to a number of providers in the VET sector commencing in early 2015. The extension of SVP arrangements aims to help make Australia a destination of choice for international students. The introduction of new policy settings such as these has the potential to influence the market. Mindful of this, the TPS will work closely with stakeholders in the sector to monitor these developments.

**2**

The changes to higher education announced in the 2014 Federal Budget mean that from 1 January 2016 all TEQSA accredited higher education institutions will be able to choose to provide Commonwealth supported places to their students. Until now, Commonwealth supported places have generally only been available through public universities. The TPS will monitor these changes to identify any developments of interest to the TPS.

**3**

The roles of the regulators for both higher education (TEQSA) and vocational education (ASQA) have been the subject of recent reviews. The TPS will continue to liaise closely with the regulators and assess and monitor any changes that may impact TPS operations.

**4**

The TPS has been operating for two years and, along with the other reforms resulting from the Baird Review of the ESOS Act, is now due for a post-implementation review—a requirement of Parliament. The review, which is being managed by the department, is currently underway and is expected to be completed later in 2014. Key stakeholders will be consulted as part of the review.

**5**

Activity undertaken by ASQA and TEQSA has an impact on the risk presented by providers. During 2013–14 the regulators took action to cancel the CRICOS registration of a number of education providers. Subject to relevant appeals processes, some of those providers may close, resulting in student claims on the Overseas Students Tuition Fund (OSTF). As at 30 June 2014, there were some 19 providers (with approximately 3400 students) being monitored. According to the Provider Registration and International Student Management System, this represents approximately \$13.5 million in unspent tuition fees.

While current conditions in the sector appear relatively stable, and the proceeds from the 2014 levy are likely to be sufficient to cover any claims made over the coming year, the TPS must be prepared for the possibility of more challenging times ahead. The building of a strategic reserve in the OSTF during more buoyant times would increase the likelihood that the TPS would be in a position to fulfil its role of placing students and paying refunds if there should be a spate of closures affecting a large number of students—as has occurred in the past. To help manage this risk, the TPS Director has entered into an insurance contract (which took effect on 1 July 2014) to ensure claims are met in the event of a large closure carrying heavy liabilities.

In summary, the international education sector is facing a period of change and development which, while positive in renewing and freeing up the market and providing new opportunities for students and providers, brings with it a measure of uncertainty and risk which the TPS will consider when formulating the settings of the TPS levy for 2015 and beyond.

The TPS Advisory Board will provide advice later in 2014 for the settings of the 2015 TPS levy. In forming its advice, the board will take into account the health of the sector and the changing policy and regulatory landscape as well as broader economic settings, the outlook in the main overseas student source countries and the increasingly competitive global international education marketplace.

The TPS Director is grateful for the advice and support he has received from the TPS Advisory Board over the past 12 months and is looking forward to working with them again during 2014–15.

## Tuition Protection Service placement and payment activity 2013–14

**Table 27 Tuition Protection Service calls 2013–14**

CALLS ON THE OVERSEAS STUDENTS TUTORIAL FUND (OSTF)	QUANTITY
Total calls made on the OSTF during 2013–14	82

**Table 28 Tuition Protection Service placement activity 2013–14**

NUMBER OF STUDENTS PLACED BY THE TPS <sup>a</sup>		
Within 30 days	Over 30 days	Total
0	0	0 <sup>b</sup>

a Time taken to place a student is measured from the end of the provider obligation period until the student accepts a placement offer.

b No placements were made during 2013–14 by the TPS.

Table 29 Time taken to make payments from the OSTF 2013–14

	REFUNDS TO STUDENTS		PAYMENT TO PROVIDERS		\$
	WITHIN 30 DAYS	31 DAYS AND OVER	WITHIN 30 DAYS	31 DAYS AND OVER	TOTAL PAID
Payments made in 2013–14 to students who were affected by closures which occurred between 1 July 2012 and 30 June 2014	20	50	0	5	110,787
Payments made to students during 2013–14 who were affected by closures which occurred before 1 July 2012	0	19	0	0	76,479
<b>Total</b>	<b>20</b>	<b>69</b>	<b>0</b>	<b>5<sup>a</sup></b>	<b>187,266</b>

a The five payments made to providers in 2013–14 were in relation to students placed with alternative providers after the closure of Milton College, which occurred in 2012–13.

Table 30 Financial status of the OSTF

STATUS OF THE OSTF	\$
Opening balance at 1 July 2013 <sup>a</sup>	5,981,998
TPS annual levy collected	6,512,898
Other revenue collected	7,841
<b>Total funds available<sup>b</sup></b>	<b>12,502,736</b>
Student and provider payments	187,266
TPS administrator services	168,756
Other operational/administrative expenses	157,307
<b>Total expenditure<sup>c</sup></b>	<b>513,329</b>
<b>Closing balance<sup>d</sup></b>	<b>11,989,408</b>

a The opening balance excludes unspent seed funding of \$3,133,042 that was returned to the Commonwealth.

b Reported on a cash basis.

c Expenditure is reported on an accrual basis.

d As of 30 June 2014, departmental records showed a balance in the OSTF of \$12,087,146. This is principally due to a number of expenses recorded by the TPS which were not recognised in departmental systems as at the reporting date.