

APPENDIX C: ANNUAL REPORT OF THE TUITION PROTECTION SERVICE

The Tuition Protection Service (TPS) is a placement and refund service for international students on a student visa who have been affected by an education provider closure. The TPS may also assist students who have withdrawn or not started their course and are eligible for a refund of tuition fees.

An annual TPS levy, paid by all Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registered providers, is paid into the Overseas Students Tuition Fund (OSTF). The levy income is used to build reserves in the OSTF and to fund TPS operations.

This report summarises the activities of the TPS from 1 July 2018 to 30 June 2019, in compliance with the *Education Services for Overseas Students Act 2000* (ESOS Act). It includes an assessment of issues affecting TPS operation, the outlook for the year ahead and any potential risks to the OSTF.

Governance

A statutorily appointed TPS Director and Advisory Board govern the TPS. The board's primary function is to provide advice and recommendations to the TPS Director on the annual TPS levy, which all institutions delivering education services to international students must pay.

The Advisory Board comprises five specified government agency representatives and up to seven non-government members. As at 30 June 2019, the board had four non-government members, including the chair and deputy chair (Table C.1).

Table C.1: Tuition Protection Service Advisory Board members, at 30 June 2019

Position	Advisory Board member
Chair	Ms Helen Zimmerman
Deputy Chair	Dr Kevin Donnelly AM
Non-government member	Mr Peter Emmerton
Non-government member	Ms Karen Howard
Representative from the Australian Prudential Regulation Authority	Mr Peter Kohlhagen (replacing Mr Michael Horton from 20 May 2019)
Representative from the Department of Home Affairs	Mr Matthew Noble (replacing Ms Bronwyn Giese from 20 May 2019)
Representative from the Department of Finance	Mr Libor Pelecky
Representative from the Department of Education	Ms Karen Sandercock
Representative from the Australian Government Actuary	Mr Guy Thorburn

A small secretariat provided by the department supports the Advisory Board and the TPS Director. The director is also supported by an external service provider, which is engaged to ensure students receive the appropriate support following a provider closure.

Operation of the Tuition Protection Service

The TPS delivers a world-class tuition assurance service that is professional, responsive and transparent.

Over the 12 months to 30 June 2019, 16 providers defaulted, which displaced 1,876 students. Eleven of these providers defaulted due to action by the regulator, and the remaining five defaults were the result of business failure. Only eight of these 16 provider defaults required the activation of the TPS, resulting in 1,013 placements or refunds.

During the year, the TPS noted that certain providers who defaulted had moved to collect more than 50 per cent of tuition fees before a student had begun their course. They started collecting more than the maximum allowable fee weeks before going into default. Under the Education Services for Overseas Students legislative framework, this is only permitted with the student's consent. The TPS remains alert to this issue.

The TPS aims to continuously improve its business processes and its service to students affected by a provider closure. In 2018–19, the TPS reviewed its business processes to identify opportunities for improvements and efficiencies in finalising placements and payments to support students. Following this review, the TPS implemented a new rapid claim process aimed at assessing a student's claim for a placement or refund more quickly.

The TPS Director is supported in his role of providing assistance to students by Vincents Chartered Accountants, which is contracted to provide a closure and student claim management service. The current contract was extended on 27 November 2018. An option to extend for one more year remains.

Tuition Protection Service levy—2019 settings and collection

In formulating the Tuition Protection Service levy settings, the Advisory Board and the TPS Director aim for an appropriate balance between ensuring there are sufficient reserves in the OSTF to meet potential demand, and that the levy collected is reasonable for providers and accumulated reserves are not excessive.

In finding this balance, the board seeks advice from stakeholders across the sector, including industry peak bodies, the regulators and the Australian Government Actuary.

As at 30 June 2019, the balance in the OSTF was a healthy \$40.6 million, which is within the Advisory Board's 2018 reserves target of \$35 million to \$60 million. The board reviews this target each year and adjusts as necessary.

In 2019, \$6.1 million was collected from across the international education sector, which is similar to the amount collected in 2018.

In 2019, the TPS decided to undertake 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 Advisory 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 following the opportunity to have discussions and consultation with the sector about any proposed changes.



The Advisory Board is expected to provide its advice to the TPS Director in the second half of 2019 to inform the TPS Director's formal decision on the final settings for the risk-rated premium and special tuition protection components for 2020.

Insurance recovery

In late 2018, the TPS commenced the process to claim refunds against its 2015–16 and 2016–17 insurance policies. Specifically, the TPS believed it had breached the amount required to claim against the 2015–16 insurance policy. The claim against the 2016–17 policy was for a rebate amount for not breaching its deductible limit.

The TPS has been informed that both claims have been approved by the relevant insurers and will be paid to the OSTF in the near future, as reflected in Table C.4.

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.

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 Home Affairs, the Australian Skills Quality Authority (ASQA) and the Tertiary Education Quality and Standards Agency. The TPS continues to maintain close working relationships with these agencies to ensure the TPS is able to respond to regulatory action in a proactive and constructive manner to achieve good outcomes for students.

In particular, during 2018–19, the TPS worked closely with ASQA, noting its increased regulatory activity to improve the quality of the vocational education and training (VET) sector. Historically, most provider closures that have required activation of the TPS have been in the VET sector.

The TPS also continues to work closely with the Overseas Students Ombudsman (OSO) to resolve disputes between providers and international students over the payment of tuition fee refunds. In 2018–19, the OSO referred a number of cases to the TPS where a student was eligible for TPS assistance.

Case of interest

On 4 July 2018, the Equity Division of the NSW Supreme Court ruled *in the matter of Australian Institute of Professional Education Pty Limited (In Liquidation)* [2018] NSWSC 1028. This matter related to the TPS, specifically section 29 of the *Education Services for Overseas Students Act 2000* (ESOS Act).

The Australian Institute of Professional Education was a large provider whose closure in 2016 resulted in the TPS assisting a number of students.

Among other matters, the ruling found that a company in liquidation whose registration is cancelled does not have to comply with the protected amount provisions of the ESOS Act.

The TPS has provided feedback to the Department of Education on the implications of the decision and matters for consideration in future policy development for the Education Services for Overseas Students legislative framework. The department is considering this matter.

Outlook for 2019–20

The international education sector of the past seven years or so is characterised by sustained and strong enrolment growth; however, the risks associated with this include:

- potential inability of the education infrastructure to keep up with demand and for quality to be maintained
- potential for business failure among providers and consequent displacement of affected students if there is a fall in enrolments.

The general economic conditions in Australia appear benign, Australia's education system has good credentials in terms of quality, and the Australian dollar remains relatively low. These factors combine to make Australia an attractive destination for overseas students. Nonetheless, there are risks to the economic outlook in Australia and globally, with central banks revising down their forecasts for economic growth.

In order for community support to be maintained for international education in Australia into the future, it will be important for the social and economic benefits to be better understood by the community. This is critical in ensuring Australia's excellent reputation for welcoming international students is maintained. Policymakers are, for example, already responding to concerns about infrastructure and population pressures in the large cities by better promoting study in regional Australia to overseas students.

There has been significant growth in VET sector enrolments in recent years, bringing into question the continued sustainability of such growth. There has also been a focus from government to mitigate risks in international education through policy and regulatory action. The VET sector regulator, ASQA, has increased its activity in improving the quality in the VET sector. VET provider closures have traditionally made up the majority of closures where a claim on the OSTF has been made, and the TPS remains alert to these risks and the challenges that might lie ahead.

The TPS Director would like to take this opportunity to thank the Chair of the Advisory Board, Ms Helen Zimmerman, and members of the board for their support, sage advice and guidance over the past 12 months.



Placement and payment activity

A total of 1,013 calls were made on the OSTF during 2018–19. The number of calls relates to the number of enrolments against which a call was made. As many students had more than one enrolment, sometimes several, the number of calls on the OSTF is higher than the number of displaced students who received payments.

Tables C.2 and C.3 show the time taken by the TPS to place students and make payments from the OSTF in 2018–19.

Table C.2: Time taken by the Tuition Protection Service to place students, 2018–19

	Within 30 days	Over 30 days	Total ^a
Number of students placed	0	17	17

a Seventeen students were placed through the TPS online system; however, more than 17 students were found a placement during the year. Many other students went to providers directly and then elected for their refund payment to be paid directly to their new provider (123 such payments were made in 2018–19; see Table C.3). Also, many of the students who received a refund from the TPS went on to continue their studies in Australia.

Table C.3: Time taken to make payments from the Overseas Students Tuition Fund, 2018–19

	Refunds to students		Payments to providers		Total paid \$'000
	Within 30 days	31 days and over	Within 30 days	31 days and over	
Payments made during 2018–19	175	715	11	112	1,833

Note: Payments relate to students who were affected by closures that occurred between 1 July 2012 and 30 June 2019.

Table C.4: Financial status of the Overseas Students Tuition Fund, 2018–19^a

	\$'000
Opening balance at 1 July 2018	36,433
TPS annual levy collected	6,131
Other revenue collected ^b	1,011
Total revenue	7,142
Student and provider payments	(2,007)
TPS administrator services	(774)
Other operational/administrative expenses ^c	(159)
Total expenditure	(2,940)
Balance as at 30 June 2019	40,635

a As at 30 June 2019, the annual financial statements (refer to Note I2 in Part 4) disclose the balance of the OSTF as \$39,564 on a cash basis. The difference between this balance and the above table is due to the inclusion of non-cash transactions.

b Other revenue collected relates to successful insurance claims approved for payment.

c Other expenditure relates to TPS operations, Advisory Board meetings, legal and actuarial advice, and other sundry items.