

APPENDIX 4: TUITION PROTECTION SERVICE (TPS) ANNUAL REPORT 2014–15

Introduction

The Australian Government's Tuition Protection Service (TPS) is a placement and refund service for international students on student visas affected by an education provider closure. The TPS may also assist where students have withdrawn from or not started their course of study and are eligible for a refund of tuition fees that have not been paid by the provider.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) registered providers. The revenue collected through the TPS levy is paid into the Overseas Students Tuition Fund (OSTF).

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 TPS from 1 July 2014 to 30 June 2015. 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 OSTF.

Governance

The TPS governance framework consists of the statutorily appointed TPS Director and a TPS Advisory Board (the Board). The primary function of the Board is to provide advice and recommendations to the TPS Director in setting the annual TPS levy, payable by all institutions delivering education services to international students.

The ESOS Act sets out requirements for the operation of the Board and states that membership must be comprised of representatives from five specified government agencies and up to seven non-government members.

In 2014–15 nine board members' terms of membership expired. These members were replaced by three general members (Dr Kevin Donnelly, Ms Helen Ujvary and Mr Michael Manetta) and two new government agency members (Ms Anne Baly and Mr Michael Horton). One current government agency member, Ms Susan Antcliff was reappointed to the Board. The Board continued to be chaired by Mr Peter Grant PSM.

Operation of the Tuition Protection Service

During the year the TPS built on the foundations laid in its formative years embedding a customer focused, professional, responsive culture and transparent operations.

Over the 12 months to 30 June 2015, there were two provider closures which displaced 548 students. One closure affected 248 students of which most either received a refund or were placed with another provider. The other closure displaced 300 students; however this required little active ongoing management by the TPS other than monitoring as the provider readily met its obligations to students in a timely manner.

During this period, 21 calls were made on the OSTF and 23 assessments of calls were completed, at a cost of \$121,288 (a number of these assessments relate to calls made in previous years). There were four claims managed under Element 1 (cases that preceded the establishment of the TPS) in 2014–15.

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 supported providers to meet their obligations to affected students to ensure all students were either 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 final option to extend the contract was exercised in 2015 and will run for a further year to July 2016.

TPS approach— proactive and collaborative approach

The work of the TPS is most effective when it is not merely reacting to a provider closure after it occurs. The Memorandum of Understanding arrangements that exist between the national regulators and the TPS are designed to ensure that the TPS becomes aware of any regulatory action taken by regulators at the earliest possible time, thus ensuring that the TPS is engaged with the provider under regulatory action in a proactive and strategic manner.

The TPS was advised of a regulatory action by TEQSA against a higher education provider in late 2013. A long drawn out period ensued including a provider appeal, initial conditional stay order, final hearing by the Administrative Appeals Tribunal (AAT) and an agreement for a very short teach-out period.

The TPS stayed engaged with the provider during this period of some ten months, but more actively, at key decision points, ensuring the provider was aware of its obligations to students and prepared to meet its obligations.

Towards the latter and crucial period, the TPS maintained frequent contact with the provider, and worked closely with potential alternative providers and a number of other stakeholders, including TEQSA and the Council of Private Higher Education, the peak body representing private higher education providers.

After close consultation with all parties, a suitable provider with capacity to offer placements to most students was found. Those students who did not accept a placement were refunded

their unspent tuition fees by their provider. The TPS actively engaged in negotiations that led to student placements with alternative providers and closely monitored the entire process until all students had either been placed or received refunds.

The work of the TPS in conjunction with TEQSA and the provider ensured that the provider met its obligations. All affected students were assisted with either a placement or a refund. As a result no calls were made on the TPS and there were no direct costs to the OSTF from this provider closure.

2015 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 CRICOS registered providers in the following year.

The Board met four times during 2014–15. During its meetings, the Board invites key stakeholders to share knowledge about current and future risks, 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 10 October 2014. Based on the advice and recommendations from the TPS Advisory Board, as well as the outcome of consultations with peak sector representatives, the TPS Director made the 2015 legislative instrument on 8 December 2014. The text of the determination can be found at www.comlaw.gov.au.

Apart from small increases due to indexation, the levy settings in 2015 remained the same as they had been in 2014. In 2014, \$6.52 million was collected; in 2015 the amount collected was \$8.55 million. The higher collection in 2015 reflects robust growth in enrolments and provider income in 2014.

The collection of the levy progressed smoothly, with no significant issues raised by CRICOS providers or sector peak bodies. By 30 June 2015, all providers had paid the levy.

Overall, the levy collection process over the first two years has gone well with very few issues identified. Nonetheless, the TPS undertook an informal post implementation review of the levy collection process with particular emphasis on an analysis of the income declarations made by providers. The review identified that the vast majority of providers declared their income and paid the correct levy amounts by the relevant due dates. There were, however, a small number of providers who were required to correct their income declarations.

At present there is approximately \$19.8 million held in the OSTF. The TPS is thus well placed to achieve its short-term strategic target of a reserve of \$20 million by the end of 2016, set by the board in 2013. Even with reserves at this level, however, the OSTF remains vulnerable to a large and unexpected increase in claims, and strategies are needed to manage this risk.

Accordingly, the Board agreed to the renewal of the OSTF re-insurance arrangement for 2015-16. It is anticipated that commercial re-insurance will be required only over the short term, until adequate reserves are built in the OSTF.

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 co-operatively 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 Immigration and Border Protection, ASQA and TEQSA. 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. The case study in the earlier section of the report aptly demonstrates the TPS approach.

The TPS continues to work closely with the Overseas Students Ombudsman (OSO) to address complaints received from international students about a range of issues concerning their CRICOS provider. During the year, 33 complaints were referred by the OSO to the TPS for investigation, of which 30 have been finalised and 3 are the subject of ongoing investigation as at 30 June 2015.

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. The charter can be found on the TPS website: tps.gov.au/StaticContent/Get/ServiceCharter.

Deregulation

Following extensive consultations with stakeholders, the TPS recommended a number of changes which would significantly reduce regulatory burden on the providers. While the TPS deregulatory strategy is largely agreed, its implementation is awaiting changes to the ESOS Act managed by the department.

TPS Reviews

TPS Post Implementation Review (PIR)

On 19 November 2013 the Office of Best Practice Regulation (OBPR) advised the department that a post-implementation review of the *Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Act 2012* was required within 1-2 years of its implementation. The review was completed and submitted to the OBPR in December 2014 and subsequently published on the OBPR website at ris.dpmc.gov.au. The review is complimentary of the TPS operations.

Review of TPS Governance and Administrative Arrangements

In June 2015, the Minister for Education and Training, the Hon Christopher Pyne MP, appointed Professor James Barber to conduct a review of the TPS governance and administration arrangements to ensure it continues to be delivered as effectively and efficiently as possible. Professor Barber is due to report in July 2015.

Outlook for the year ahead

2014–15 saw a number of positive developments in the international education sector in Australia. International student data indicates growth in total enrolments and commencements of 11.2% and 9.1% respectively when comparing year to date April 2014 to year to date 2015. There have also been a number of welcome developments in international education public policy.

On 1 April 2015 the Government released the Draft National Strategy for International Education. The national strategy will help build a whole of sector approach and coordinate policy with the objective of the sustainable development of international education in Australia.

The Government's trade, investment and education promotion agency, Austrade, is seeking to work collaboratively with Australia's international education sector, including non-traditional players, to develop Australian International Education (AIE) 2025, a long-term market development strategy for the next decade. The AIE 2025 is deliberately ambitious and is looking at among other things, doubling the number of students studying for Australian qualifications.

Part 6

On 16 June 2015 the Government released the Future directions for streamlined visa processing report and announced the introduction of a simplified international student visa framework to support Australia's education services sector. These changes will simplify the student visa framework, significantly reduce red tape, create a level playing field for all education providers and deliver a more targeted approach to immigration integrity.

2014–15 also saw a review of the ESOS Act, noted above. The proposed changes will make ESOS more contemporary, flexible and effective and address a key Government objective – to reduce red tape.

The TPS continues to enjoy a productive and effective relationship with the national regulators ASQA and TESQA. Both continue to keep the TPS informed about developments in their risk assessment frameworks and proposed regulatory actions that may affect students.

Balanced with these positive developments there still needs to be vigilance. Recently there have been a number of reports looking at different aspects of international education in this country. These reports raise issues that need to be considered when assessing the strategic risk environment for international education.

On 16 April 2015 the NSW Independent Commission against Corruption (ICAC) released a report *Learning the hard way: managing corruption risks associated with international students at universities in NSW*. The report identifies several corruption risks created by universities' international student businesses. The report suggests a number of key initiatives including separating the academic compliance and incentive functions of international student offices to reduce the risk of corruption.

The Productivity Commission released a report *International Education Services* on 30 April 2015. Amongst a number of key points the report states that the sustainability of international education exports is more closely linked to regulatory settings than in many other sectors. Regulatory settings around student visas and education quality are crucial; the potential broadening of access to streamlined visa processing by a wider spectrum of education providers carries risks to the reputation of Australia's education system.

A recent report on the ABC's Four Corners program drew attention to shortcomings in the systems through which overseas students gain access to Australian institutions and the pressures on universities to lower assessment standards in order to maintain student numbers (and revenue).

The VET sector is also undergoing a series of reviews/investigations associated with access to the VET FEE-HELP loan arrangements. At least some of the VET providers involved are registered for CRICOS purposes and there is the possibility of spill-over effects into the international education market.

The above issues highlight some of the potential challenges in the international education sector in the years ahead.

In summary, the positive policy developments in international education should support strong sector growth and new opportunities for students and providers. However, the new policy developments will also bring uncertainties and the TPS will need to remain alert to any emerging issues.

As the TPS Director I would like to take the opportunity to thank the following board members whose membership expired during the year; David Menarry; Jim Dale; Mel Koumides; Michael Ryan; Audrey Jackson; Richard Arkell; Stephen Conway.

The departing Board members were an integral part of setting the direction and culture of the TPS. Their constructive and non-partisan advice and guidance to the TPS was highly valued.

Tuition Protection Service placement and payment activity 2014–15

Table 22: Tuition Protection Service calls 2014–15

Calls on the OSTF	Quantity
Total calls made on the OSTF during 2014–15	21

Table 23: Tuition Protection Service placement activity 2014–15

Number of students placed by the TPS		
Within 30 days	Over 30 days	Total
0	0	0 ^a

- a While the TPS has been active in assisting providers to meet their obligations and helping to find placements for students outside of the TPS system (see for example the case study above), the TPS was not officially called upon to find placements for students. All the students who received a refund from the TPS (see page 207) either chose to find their own placement or had their visa refused (5) had left Australia before making a claim (1) or were related to a closure that occurred before the TPS was established (4).

Table 24: Time taken to make payments from the Overseas Students Tuition Fund 2014–15

	Refunds to students		Payment to providers		Total paid
	Within 30 days	31 days and over	Within 30 days	31 days and over	
Payments made to students during 2014–15 who were affected by closures which occurred between 1 July 2012 and 30 June 2015	3	16	0	0	\$104,353
Payments made to students during 2014–15 affected by closures which occurred before 1 July 2012	0	4	0	0	\$16,935
Total	3	20	0	0	\$121,288

Table 25: Financial status of the Overseas Students Tuition Fund

Status of the Overseas Student Tuition Fund ^a	\$'000
Opening balance at 1 July 2014	12,157
TPS annual levy collected	8,550
Other revenue collected	41
Total receipts	8,591
Student and provider payments	121
TPS administrator services	93
Other operational/administrative expenses	665
Total payments	879
Balance as at 30 June 2015	19,869

a. From 2014–15 the OSTF is reporting on a cash basis. Previous years reported receipts on a cash basis and expenditure on an accrual basis.