



Appendix A12: Tuition Protection Service performance

Introduction

Based on the requirements set out in the *Education Services for Overseas Students Act 2000* (ESOS Act), this report provides a brief overview of the Tuition Protection Service (TPS) since its commencement on 1 July 2012, an assessment of issues affecting the operation of the TPS during the financial year, the outlook for the year ahead and any potential risks that outlook might pose to the Overseas Students Tuition Fund (OSTF).

Tuition Protection Service

The TPS, which commenced on 1 July 2012, 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 framework 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 report of the Baird review of the ESOS Act). 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The TPS may also assist where international students have either withdrawn from or not started their course and are eligible for a refund of tuition fees that has not been paid by the provider.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 the collection of 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 OSTF, which is a 'special account' under the *Financial Management and Accountability Act 1997*.

The TPS provisions replaced the two-tiered consumer protection arrangements which operated under the ESOS Act prior to 30 June 2012 and which encompassed a number of Tuition Assurance Schemes operated by private sector bodies and the Australian Government's ESOS Assurance Fund.

TPS Governance

The TPS governance framework is constituted by the statutorily appointed TPS Director and a 12 member TPS Advisory Board. The primary functions of the TPS Director under the ESOS Act 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 OSTF; manage the TPS to ensure it meets its liabilities; and make a TPS levy legislative instrument each year.

In October 2012, the then Minister for Tertiary Education, Skills, Science and Research, Senator the Hon Chris Evans, appointed the TPS Advisory Board members. They represent all areas of the sector—higher education, vocational education and training (VET), schools, English language intensive courses and TAFE colleges. The members were selected on the basis of their qualifications and extensive experience.

The board was chaired by Mr Peter Hughes PSM, a Visitor at the Regulatory Institutions Network at the Australian National University and former Deputy Secretary of the Department of Immigration and Citizenship, until his resignation on 23 May 2013. Mr David Menarry, Chief Financial Officer, at Curtin University, is the Deputy Chair and is currently acting as the chair.

The board's role is to provide advice to the TPS Director on issues relating to the annual TPS levy. The board met twice in 2012 (October and November) to finalise its inaugural advice to the TPS Director in relation to the 2013 TPS levy legislative instrument. In the first half of 2013, the board met on two occasions and is scheduled to meet twice more in 2013.

The board's work is guided by the following principles adopted by the board at its first meeting:

- Advice provided to the TPS Director should reflect the overall risk environment and ensure that revenue matches what is needed to sustain the OSTF, 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; and
- Additional imposts on industry, such as data collection, should be minimised as far as possible.

TPS Levy 2013

The TPS levy, which is paid by all CRICOS providers, has four components: base fee, administrative fee, risk rated premium fee and special tuition protection fee. The calculation methodology for the levy components is set out in the *Education Services for Overseas Students (TPS Levies) Act 2012*.

The TPS Director is required to make a legislative instrument each year setting out the parameters of the risk rated premium and special tuition protection components of the TPS levy. Based on advice and recommendations from the TPS Advisory Board as well as consultations with peak sector representatives, the TPS Director made the 2013 legislative instrument on 21 December 2012. A copy of the legislative instrument (F2012L02575) can be found at www.frli.gov.au.

The implementation of the 2013 TPS levy progressed smoothly, with no significant issues being raised by CRICOS providers or peak sector representatives. As requested, CRICOS providers declared their income from international student tuition fees for the calendar year 2012 by February 2013. The 2013 TPS levy invoices were generated on 3 April 2013 and forwarded to 1,158 CRICOS providers. The invoices were to be paid by 2 May 2013. As at 30 June 2013, the 2013 TPS levy had raised approximately \$5.98 million. The revenue collected through the TPS levy is paid into the OSTF.

Operation of the TPS

The TPS began on 1 July 2012 and was capitalised with seed funding of \$5 million transferred into the OSTF by the Australian Government.

On 4 July 2012, the TPS Director appointed PricewaterhouseCoopers as the TPS Administrator following the completion of an open tender process. The TPS Administrator supports the functions of the TPS Director through delivery of a comprehensive, client-focused, end-to-end service to assist international students affected by provider closures.

Since the TPS began there have been nine provider closures displacing 907 international students. Six of these closures required the activation of the TPS. 226 calls were made on the OSTF with 172 of those calls being finalised as at 30 June 2013 for a total of \$358,005. Student placements and refunds have been facilitated promptly, consistent with legislative requirements. In the case of the remaining three closures, the TPS worked closely with providers to ensure they met their obligations to place or refund students in accordance with the requirements of the ESOS Act.

One provider closure was the result of a business failure; the remaining eight closures managed by the TPS were due to the regulatory activity of the new national regulators—the Australian Skills Quality Authority (ASQA) and the Tertiary Education Quality and Standards Agency (TEQSA). This is in significant contrast to the closures that occurred before the TPS, which were predominantly the result of business failures.

In addition to the 226 calls discussed above, a further 102 calls were made on the OSTF by students whose providers closed before 1 July 2012. Of these, 77 were finalised by 30 June 2013. A total of \$356,183 has been paid in relation to these claims.

As well as dealing with the calls made on the OSTF during 2012–13, the TPS has also managed the liabilities of the 170 claims settled prior to the commencement of the TPS. As at 30 June 2013, \$293,758 has been paid from the OSTF for 68 of these claims. The TPS will continue to work through the outstanding payments in respect of these claims.

Regulatory action has also led to a number of course closures (where one or more courses are cancelled but the provider continues to operate). The TPS has been supporting these providers to meet their obligations to affected students and standing ready to provide assistance where necessary. Since the commencement of the TPS, four providers have ceased to deliver one or more courses as a result of regulatory action. This has affected approximately 350 students. All students affected by these course closures have either been placed in an alternative course or paid a refund of their unspent tuition fees.

In response to changes within the international education marketplace, four providers made a business decision to cease delivery of courses in some subject areas and in some locations. Having informed the TPS of their intentions, these providers have worked closely with the TPS to ensure the 760 affected students were appropriately supported to find a suitable alternative course or paid a refund of their unspent tuition fees.

The TPS has also been monitoring and assisting providers to meet their reporting obligations in relation to student defaults. A student default occurs when a student fails to commence a course as expected or stops attending a course. Providers are required to report such incidents and must meet their obligations to these students. The TPS has undertaken a significant amount of work relating to student defaults and has worked closely with providers in these circumstances to ensure that they meet their reporting responsibilities. Approximately 40,000 student defaults have been reported

since the TPS began. As at 30 June 2013, only one of these has required the activation of the TPS.

The TPS has also worked closely with the office of the Overseas Students Ombudsman (OSO) to address complaints received from international students about their CRICOS provider. As at 30 June 2013, 19 complaints had been referred to the TPS for investigation of which seven had been finalised and 12 are the subject of on-going investigation. These complaints were not related to decisions made by the TPS. Protocols for managing student complaints have been developed and the TPS is working closely with the OSO on these matters.

In February 2013, the TPS Director published the TPS Service Charter for students and other stakeholders. The charter sets out service standards, communication protocols and decision review options. The TPS Charter can be found at the TPS website www.tps.gov.au/StaticContent/Get/ServiceCharternoparent. The TPS has broadly met the service standards outlined in the charter.

The TPS has also finalised a memorandum of understanding (MoU) with ASQA, setting out how the TPS will work and communicate with the authority on regulatory action and provider closures. The TPS and TEQSA are negotiating on similar MoU arrangements.

More broadly, the TPS Director has regularly consulted with peak sector stakeholders on a range of issues relating to the TPS. Provider closure protocols which set out who does what when a provider closure occurs have been developed with input from state and territory governments, the Department of Immigration and Citizenship, ASQA and TEQSA. These protocols were endorsed by all parties on 7 May 2013.

The TPS is also continuing to further enhance and develop the TPS website and online placement system. The online placement system is the primary mechanism to facilitate

placement and refunds for international students who are affected by CRICOS provider closures.

Outlook for the year ahead

Current international student enrolment and trend data indicate that, while growth in enrolments has been uneven, the sector is operating in relatively stable conditions. The potential failure of some providers to meet the necessary accreditation standards (and therefore being subject to regulatory action) is the single largest factor affecting TPS operations and the viability of the OSTF in 2013.

Regulatory activity undertaken by ASQA during 2012–13 has included action to cancel the CRICOS registration of education providers, most notably in the VET sector. Subject to relevant appeal processes, there is potential for a significant number of those providers to close and for student claims to be made on the OSTF. As at 30 June 2013, there were some 22 providers with approximately 4,400 students on the TPS watch list. Should those providers close, it is estimated that the TPS could be liable for approximately \$11 million in unspent tuition fees, assuming an average pre-paid fee of around \$2,500 per student.

While it is anticipated that the proceeds of the 2013 levy should be sufficient to meet the same number or a moderately higher number of claims than were made in 2012–13, the early establishment of a strategic reserve for the OSTF would assist long-term sustainability, and ensure that the OSTF is in a position to meet increased claims should the sector experience a significant downturn in the years to come. To this end, the TPS Advisory Board is considering a number of options to build a reserve, including reinsurance arrangements and imposing the special tuition protection component for the 2014 TPS levy. A combination of these options, or either separately, could be used to build a sustainable reserve in the OSTF.

TPS Placement and Payment Activity 2012–13

Table 57: TPS calls and placement activity 2012–13

Calls on the OSTF	Quantity
Calls made by students affected by closures between 1 July 2012 and 30 June 2013	226
Calls made by students affected by closures which occurred before 1 July 2012	272
Total calls made on the OSTF	498
Number of students placed by the TPS ⁽¹⁾	
Within 30 days	Over 30 days
64	0
	Total
	64

Table 58: Time taken to make payments from the OSTF 2012–13

	Refunds to students		Payments to providers		Total paid
	Within 30 days	31 days and over	Within 30 days	31 days and over	
Payments made to students affected by closures which occurred between 1 July 2012 and 30 June 2013	25	82	0	63	\$358,005
Payments made to students affected by closures which occurred before 1 July 2012	0	111	0	0	\$649,941
Total	25	193	0	63	\$1,007,946

Table 59: Financial status of the OSTF

Status of the Overseas Student Tuition Fund	
Opening Balance at 1 July 2012 — seed funding	\$5,000,000
TPS levy collected	\$5,981,998
Total revenue	\$10,981,998
Student and Provider payments	\$1,007,946
TPS Administrator services	\$385,106
Other operational/administrative expenses	\$473,907
Total expenditure	\$1,866,958
Repayment of seed funding ⁽²⁾	\$3,133,042
Total remaining	\$5,981,998

(1) Time taken to place a student is measured from the end of the Provider Obligation Period until the student accepts a placement offer.

(2) Any remaining seed funding (after eligible amounts have been debited) is returned to the Commonwealth on 1 July 2013 — see clause 51(2) clause 51 of Table A (Transitional Provisions) of the ESOS Act 2000. This repayment will appear in the TPS Annual Report for the 2013–14 reporting period.