

Tuition Protection Review

Final report

23 February 2022

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Executive summary

The Department of Education, Skills and Employment (the department) commissioned Nous Group (Nous) to review the operations of the Tuition Protection Service (TPS) and to report on the effectiveness and efficiency of the legislative, operational, administrative and governance arrangements. The Review has also assessed the response of the TPS to the COVID-19 pandemic and considered the suitability and feasibility of extending the coverage of the TPS to up-front fee-paying students in the vocational education and training (VET) sector. The Review has been undertaken as a requirement of the four Acts that comprise the TPS legislation: the *Education Services for Overseas Students Act 2000* (ESOS Act), the *Higher Education Support Act 2003* (HES Act), the *VET Student Loans Act 2016* (VSL Act), and the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act). Terms of reference are provided at page 6. The Review has been conducted against the backdrop of the COVID-19 pandemic with the education sector under pressure.

We are pleased to present this report which outlines the Review's findings and recommendations. The Review has been informed by qualitative and quantitative data including consultations with internal stakeholders; structured interviews with external stakeholders; surveys of students and education providers; and a review of program documents and analysis of program performance data. We thank departmental staff for their time, professionalism and unlimited patience during the Review.

The TPS was originally established in 2012 in response to a range of challenges to provide 'last-resort' tuition assurance to international students in Australia, in the event their provider fails to meet its obligations in relation to pre-paid tuition fees. It has since been expanded to cover some cohorts of domestic students, including students in receipt of a Higher Education Loan Program (HELP) loan and up-front fee-paying higher education (HE) students at private providers; and VET Student Loans (VSL) students.

It comprises a set of industry levy-funded funds to cover the costs of refunding student fees and recrediting Commonwealth loans; and a placement service to help affected students continue their studies.

Suitability and design

Since its establishment in 2012, the TPS has provided tuition assurance to international students, giving confidence that their investment in an Australian education is protected. The Review found that there is broad acceptance of the case for tuition protection for international students and support for the TPS as the appropriate mechanism. The rationale for tuition protection for international students includes that:

- there are information asymmetries with students having less understanding of the risks of provider failure than providers themselves
- international students are vulnerable consumers, given the large fees they pay and the potential difficulties they may experience in taking remedial action through general consumer protection arrangements
- there are externalities for Australia's broader reputation for international education.

This Review has identified a range of opportunities to improve the design, effectiveness and efficiency of the TPS, as it applies to international education. The high-level design elements of a government compensation fund and placement service are broadly suitable for international students and not priorities for reform.

The TPS was not originally designed with domestic students in mind. However, its coverage was extended to HELP students in the HE sector and VSL students in the VET sector at the beginning of 2020, and to up-front fee-paying HE students at private providers in 2021. The policy rationale for the inclusion of these additional student cohorts is broadly the same as for international students, although the information asymmetries, reputational risks and students' financial exposures are less acute. An additional rationale for the inclusion of the VSL students includes the government's response to the failure of the VET FEE-HELP scheme and the need to protect both students and its own reputation as a loan provider.

The TPS in its expanded form, comprises three separate funds established under the ESOS Act, HES Act, VSL Act and relevant subordinate legislation. There is broad alignment across the three funds, but the Review has found that there are some differences between the Acts that seem unwarranted. These include:

- VSL students are only eligible for a loan recredit if the TPS is unable to find a suitable placement for them, whereas international and HE students can choose between accepting a placement offered by the TPS and receiving a refund or loan recredit. While the policy rationale regarding the transferable nature of VET courses and the desirability of keeping students within the education and training system is compelling, current arrangements do not place sufficient value on student choice.
- There is a discrepancy between the obligations of VSL providers who are not required to attempt to place students or loan recredit before the TPS is activated, unlike other providers covered by the TPS.
- Refunds and loan recredits are calculated differently across the funds.

The governance of the TPS could be streamlined without significant impact on its operations or on the quality of decision-making. The Advisory Board functions effectively however, the number of both government representative and independent members could be reduced.

The Review considered the pros and cons of retaining the TPS Director as a statutory position. On balance, the Review found insufficient evidence to recommend a change now. External stakeholders value having an independent director although their views were not determinative. The likely savings from bringing the position into the department were estimated to be small and would probably accrue to industry rather than government given industry funding arrangements.

Operations

The Review's analysis of administrative information suggests that the TPS is operating well for international students and this view is echoed by most stakeholders.

The Review found that it was too soon to form a view about the operation of the TPS for domestic students given the short period of time they had been included in the scheme and the fact there have been no provider defaults to test its operation.

The TPS manages substantial risk given the potential impact of a major event. Its capacity to pay refunds and recredits would be severely tested should a large number of providers default simultaneously. This is exacerbated in the early years of a new fund when there has not been an opportunity to build up sufficient reserves. The TPS relies heavily on the advice of the Australian Government Actuary (AGA) on the mitigation of these risks and has set fund targets and levies to ensure there are adequate funds. The international fund has been in operation for nearly a decade and has built reserves to within the range recommended by the AGA. The domestic funds have not been in operation for long enough to have experienced a meaningful range of market conditions and, to date, providers have not paid any levies because of COVID-19 relief measures. It is, therefore, too early to make any judgements about the effectiveness of the risk management of these new funds.

Response to COVID-19

The TPS took a proactive stance in response to the COVID-19 pandemic although the anticipated defaults as a result of declining international student numbers did not eventuate. The Review found that the actions taken to respond to the pandemic were appropriate and could be adopted as ongoing measures.

Expansion to up-front payment students in the VET sector

Under current arrangements, there are inequities in the coverage of domestic VET students, most notably for students who pay full fees at private providers. These students are arguably more exposed financially than those who have taken out a Commonwealth loan. As a matter of principle, there is an argument for providing these students with comparable protections to VSL students.

However, given the relatively small size of the domestic student cohorts that are currently included in the TPS, it remains untested as a suitable vehicle for a larger cohort of domestic students. Moreover, there is not sufficiently clear evidence of the actual scale and intensity of detriment to students to warrant the costs associated with further expansion. The department should work with states and territories to explore potential alternative appropriate measures to support this cohort.

Summary of recommendations

Suitability and design

1. The department and TPS should monitor ongoing activity in the domestic TPS and broader industry, and regulatory developments in HE and VET and review the need for ongoing tuition assurance for those groups of domestic students into the future – including considering other lower, cost alternatives for tuition protection for domestic students.
2. The TPS legislative framework should be aligned in three respects:
 - a. Offer VSL students a choice of accepting a placement or recredit, in line with choice currently available to other students under TPS.
 - b. Create obligation for VSL providers to provide a recredit or replacement to students in the event of a default, in line with obligations for other TPS providers.
 - c. Amend calculation of refund for international students to better align with calculations for equivalent domestic sectors; and give TPS Director discretion to act in students' best interests.
3. The TPS should publish more detailed information on the rationale for risk factors and distribution of levies collected across different components, risk factors and provider types.
4. The base component should be removed from the international levy.
5. The department and TPS should explore options for moving to a fully industry-funded model.
6. Membership of the TPS Advisory Board should be reduced, moving over time towards five to seven members with broadly equal representation of government agencies and independent members, selected based on their expertise and experience.
7. The TPS Director should remain an independent statutory role, appointed by the Minister.
8. The department should assess the impact on the effective operations of the TPS of converting the TPS Director to a part-time role – including attraction and retention impacts – to inform recruitment of the next substantive Director in 2022.

Summary of recommendations

Operations

9. TPS Operations should develop TPS student factsheets and identify translation and interpretation options to support use of TPS Online for students with limited English language skills.
10. TPS Operations should capture and review student satisfaction data more regularly, to help refine and improve service delivery.
11. TPS Operations should reduce the time and effort spent on servicing the TPS Advisory Board.
12. Current resourcing levels and structure within TPS Operations should be maintained for now but reviewed when the domestic TPS arrangements have matured, and the requirements and activity levels are well understood.
13. Eliminate the duplication of activity between TPS Director and TPS Operations, and TPS Administrator.
14. Consider whether the benefits of outsourcing the TPS Administrator function continue to warrant the higher costs of contracting out, or whether an in-house model is preferred, ahead of the Administrator's contract renewal due in 2023.
15. The TPS should develop contingency operational plans for a significant systemic event.
16. The TPS should establish formal, senior-level engagement mechanisms with regulators.
17. The TPS should develop and implement proportionate, formal risk management processes and governance.
18. The TPS should continue to work with TCSI and other departmental stakeholders to improve access to required data and reduce reporting burden for providers.

Response to COVID-19

19. The TPS should continue to closely monitor the international environment through analysis and engagement with a wide range of sources including providers, sector peaks, education agents and other government agencies on a regular basis.
20. The TPS Director and Advisory Board should consider adjusting the risk factor relating to volatility in student enrolments to reflect the expected bounce back in international education.
21. The TPS should conduct targeted, early communications on the potential resumption of the domestic levies, to help manage 'payment shock'.

Expansion to up-front VET

22. TPS should not be expanded to up-front fee-paying domestic VET students. The department should work with VET regulators and states and territories to explore appropriate alternative tuition protection or support arrangements for this cohort, for example services that provide additional information and guidance to affected students to find another suitable course, at lower cost than the TPS.

Terms of reference

TPS legislation requires that the Review consider the operation of tuition protection arrangements, the tuition protection funds, and related matters. Specific terms of reference for the Review, agreed by the Minister for Education and Youth and the Minister for Employment, Workforce, Skills, Small and Family Business, are as follows.

For all tuition protection arrangements in place for International Education, VSL, HELP, and HE domestic up-front payment students:

1. Assess the effectiveness and efficiency of the current legislative, operational, administrative and governance arrangements of the TPS, including:
 - a. the position, role and functions of the TPS Director as specified in the above legislation for both the international and domestic sectors
 - b. the structure, function and operation of the TPS Advisory Board
 - c. whether the current delivery arrangements best meet the tuition protection policy objectives as set out in the ESOS Act, VSL Act, HES Act and the TEQSA Act
 - d. the framework of the current legislative structure of the TPS as set out in the ESOS Act, VSL Act, HES Act, the TEQSA Act and multiple subordinate legislative instruments
 - e. risk management arrangements in place in relation to the TPS
 - f. the adequacy of the data collection arrangements in place to support the TPS, including any regulatory burden imposed on providers.
2. Assess the suitability of each sector quarantined Tuition Protection Fund, including its:
 - a. administrative functions
 - b. levy mechanisms
 - c. governance arrangements
 - d. short-term and long-term sustainability to ensure a balance between sufficient funds to meet demand and industry contributions
 - e. compliance with the Public Governance, Performance and Accountability Act 2013 (PGPA Act).
3. Assess the response taken by the TPS Advisory Board to date with regard to the impact of the COVID-19 pandemic, particularly with regard to the sustainability of the TPS Funds and the ability of the TPS to deliver its policy objectives.
4. Consider improvements to current tuition protection arrangements for the International Education, VSL, HELP and HE domestic up-front payment sectors, including mechanisms to realise improvement.
5. Consider the suitability and feasibility of expanding current TPS arrangements to up-front payment students in the VET sector.

1 Introduction

1.1 Background

The department commissioned Nous to conduct the Tuition Protection Review. The Review was initiated by the Minister for Education and Youth (the Hon Alan Tudge MP) and the Minister for Employment, Workforce, Skills, Small and Family Business (the Hon Stuart Robert MP), in line with legislative requirements for a review to commence in 2021.

The TPS is an Australian Government program providing 'last-resort' tuition assurance to students in Australia, in the event their provider fails to meet its obligations in relation to pre-paid tuition fees. It was established in 2012 in response to a range of problems in international education, as a successor to previous tuition assurance arrangements. It comprises a set of industry levy-funded funds to cover the costs of refunding student fees and recrediting Commonwealth loans; and a placement service to help affected students continue their studies. While the TPS and its predecessors have historically covered international students, in 2020 and 2021 it was expanded to cover certain segments of domestic education: HELP and up-front fee-paying HE students at private providers; and VSL students at private providers.

The Review has considered the governance of the funds, how risk is assessed, the setting of annual levies and the administrative arrangements that support the scheme. It has also considered the potential expansion of the TPS to up-front fee-paying VET students.

1.2 Legislative requirements

The relevant legislative requirements for the Review are set out in:

- Section 113A of the VSL Act
- Section 176A of the ESOS Act
- Section 238-7 of the HES Act
- Section 203A of the TESQA Act.

The legislation requires that a review be undertaken of the operation of the tuition protection arrangements for each Tuition Protection Fund; and assess the suitability of the TPS to provide student consumer protection across each sector.

Terms of Reference are at page 6. The report of the Review must be tabled in both Houses of Parliament within 15 sitting days after its completion.

1.3 Industry context

The Review has been conducted in the context of an education sector under pressure. The COVID-19 pandemic has triggered a significant decline in the number of international students and has necessitated education and training providers finding new ways to meet the needs and expectations of both domestic and international students.

International education providers have been at risk of losing global market share while Australian borders stayed closed for longer than major competitor countries. With Australian borders beginning to open, it remains to be seen what impact there will be on international student numbers and the revenue they generate for providers over the next few years.

At the same time, providers have responded to lockdowns in many states and territories by offering online and virtual experiences for their students. It seems likely that at least some of these new modes of delivery will continue beyond the pandemic creating the potential for the emergence of new business models to meet the changing preferences of students. This uncertainty will require a stable regulatory framework and assurances for students that their investments in education and training will be protected.

1.4 Approach

The Review was undertaken from September 2021 to February 2022. It took place over three stages:

Stage 1: Initial document review and analysis

Stage 2: Broader data collection and stakeholder engagement

Stage 3: Synthesis and reporting.

Data sources include:

- Program and management documents provided by the department, including legislation, previous reviews and reports, financial data, Advisory Board papers, communications templates and work plans.
- Interviews with 40-50 stakeholders including departmental officers (including TPS Operations), TPS Director (former and interim), TPS Administrator, TPS Advisory Board members, representatives of regulators, provider peak bodies and student peak bodies.
- Request for online submissions issued to all providers covered by TPS (copy of instrument at Appendix C).
- Survey of students who have been previously supported by the TPS (copy of survey instrument at Appendix D).
- Small group and individual workshops conducted with providers.

A full list of engagement participants is at Appendix B.

In addressing the terms of reference, the Review considered three overarching elements:

1. **Suitability and design:** the extent to which the TPS is well-suited and designed for its intended purpose.
2. **Effectiveness:** the extent to which the TPS and its components are achieving the desired outcomes.
3. **Efficiency:** the extent to which the TPS and its components represent value for money.

1.5 This report

In November 2021, the Review provided an interim report setting out emerging findings and recommendations, for feedback from department stakeholders, input on areas for further analysis, and confirmation of facts and interpretation.

The Review team has subsequently conducted further data collection and analysis in identified areas of focus, to inform this final report.

The report is structured as follows:

Section 2 – Overview of the TPS provides a short summary of the TPS’s purpose, structure and context. It provides context for readers less familiar with the TPS.

Section 3 – Assessment of tuition protection arrangements summarises the Review’s key findings and recommendations. It has four subsections:

- **3.1 Suitability and design** addresses the overall appropriateness and design features of the TPS, including the legislative framework, funding arrangements, governance and institutional arrangements.
- **3.2 Operations** addresses the effectiveness and efficiency of TPS service delivery.
- **3.3 TPS Advisory Board’s response to COVID-19** directly addresses a specific element of the terms of reference.
- **3.4 TPS’s potential expansion to up-front payment students in the VET sector** directly addresses a specific element of the terms of reference.

Appendices A-D provide a glossary of terms, stakeholder list and data collection instruments.

Table 1 shows where individual terms of reference are addressed in this report.

Table 1 | Terms of reference in this report

Terms of reference for 1. Assess the effectiveness and efficiency of the current legislative, operational, administrative and governance arrangements of the TPS including:	Section reference
a. the position, role and functions of the TPS Director as specified in the above legislation for both the international and domestic sectors	3.1.6
b. the structure, function and operation of the TPS Advisory Board	3.1.5
c. whether the current delivery arrangements best meet the tuition protection policy objectives as set out in ESOS Act, VSL Act, HES Act and the TEQSA Act	3.1.1 , 3.1.2
d. the framework of the current legislative structure of the TPS as set out in the ESOS Act, VSL Act, HES Act, the TEQSA Act, and multiple subordinate legislative instruments	3.1.3
e. risk management arrangements in place in relation to the TPS	3.2.3
f. the adequacy of the data collection arrangements in place to support the TPS, including any regulatory burden imposed on providers.	3.2.4
Terms of reference for 2. Assess the suitability of each sector quarantined Tuition Protection Fund, including its:	Section reference
a. administrative functions	3.2.1 , 3.2.2

Terms of reference for 2. Assess the suitability of each sector quarantined Tuition Protection Fund, including its:	Section reference
b. levy mechanisms	3.1.4
c. governance arrangements	3.1.5
d. short-term and long-term sustainability to ensure a balance between sufficient funds to meet demand and industry contributions	3.2.3
e. compliance with the Public Governance, Performance and Accountability Act 2013 (PGPA Act)	3.2.5

Terms of reference	Section reference
3. Assess the response taken by the TPS Advisory Board to date with regard to the impact of the COVID-19 pandemic, particularly with regards to the sustainability of the TPS Funds, and the ability of the TPS to deliver its policy objectives.	3.3

Terms of reference	Section reference
4. Consider improvements to current tuition protections arrangements for the International Education, VSL, HELP and Higher Education domestic up-front payment sectors, including mechanisms to realise improvement.	See 'Recommendations' throughout Section 3

Terms of reference	Section reference
5. Consider the suitability and feasibility of expanding current TPS arrangements to up-front payment students in the VET sector.	3.4

2 Overview of the TPS

This section provides a high-level overview of the TPS, including its objectives, history, design and operations. It provides background and context for the analysis, discussion and assessment presented in Section 3.

TPS supports students whose education providers cannot complete the delivery of their course of study

The TPS is an Australian Government program to assist students whose education providers are unable to complete the delivery of their course of study. TPS forms part of the broader regulatory and consumer protection frameworks across the respective education sectors. It has two main components: a set of funds to cover the costs of refunds for tuition fees, loan recredits and replacements; and a placement service to place students in alternative courses. It is predominantly funded via industry levies.

TPS is established by the ESOS Act, the HES Act, the VSL Act and the TEQSA Act, and supported by relevant subordinate legislation and legislative instruments.

The TPS adopts an explicitly student-focused approach and aims to ensure students are assisted in a timely and supportive manner. TPS focuses on protecting, assisting and supporting students' interests, and providing clear, appropriate and concise advice in line with the legislation. For education providers, TPS is committed to engaging with providers in an open, transparent and proactive manner, and providing advice and assistance to providers, particularly those in a default situation.

TPS is shaped by several predecessor programs

Government-run, industry-specific assurance for tuition fees in Australian education dates back to the original ESOS Act, enacted in 1991. The Act represented a response to a series of provider closures which resulted in the Commonwealth stepping in to provide refunds to affected students. The ESOS Act subsequently aimed to ensure providers would bear the cost of future closures, rather than the Commonwealth; and addresses adverse reputational impacts internationally.¹ The original Act included requirements for providers to maintain dedicated accounts to cover fees, or other forms of tuition protection.² Subsequent amendments required most providers to be a member of a Tuition Assurance Scheme (TAS), providing alternative tuition placement to affected students. Further reforms in 2000, responding to concerns about market volatility during the Asian financial crisis, recognised that tuition protection arrangements had been effective, but added a new, 'last resort' layer of the ESOS Assurance Fund, a Commonwealth-owned fund collecting provider levies to cover costs of student refunds.

¹ Parliament of the Commonwealth of Australia (2000), Bills Digest No. 62 2000-01 Education Services for Overseas Students Bill 2000, https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd0001/01bd062; Parliament of the Commonwealth of Australia (1992), Senate Standing Committee on Employment, Education and Training, *Inquiry into the Operation of the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991*. https://parlinfo.aph.gov.au/parlInfo/download/publications/tables/papers/HPP032016010153/upload_pdf/HPP032016010153.pdf;fileType=application%2Fpdf#search=%22publications/tables/papers/HPP032016010153%22

² *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991*, s6, http://classic.austlii.edu.au/cgi-bin/sinodisp/au/legis/cth/num_act/esfosopa/1991909/s6.html?stem=0&synonyms=0&query=education%20services%20for%20overseas%20students

Most recently, the 2012 reforms of the ESOS Act combined the functions of the government-run ESOS Assurance Fund with the TPS placement schemes previously run by industry bodies into a single, government-run service for international students, in the form of the current TPS.

In 2020, the TPS was expanded to assist domestic VSL and HELP students, and further expanded in 2021 to assist domestic up-front fee-paying HE students at private providers. As such, the domestic expansion is relatively new and has not yet had any activations. Processes and systems for administering the domestic schemes are still being developed.

These changes in the scope of the TPS over time mean that some domestic students are covered by the TPS, while others are not. Table 2 summarises TPS coverage across different student cohorts.

Table 2 | Current TPS coverage by student cohort

Sector	Student cohort	TPS status
International	All	Covered
Domestic HE	Students receiving or entitled to HECS-HELP or FEE-HELP assistance at providers other than Table A providers and government owned-providers	Covered
Domestic HE	Up-front fee-paying students at providers other than Table A providers and government-owned providers	Covered
Domestic HE	Students at Table A providers and government-owned providers	Not covered ^{3, 4}
Domestic VET	VSL students at providers other than Table A providers and government-owned providers	Covered ⁵
Domestic VET	VSL students at Table A providers and government-owned providers	Not covered
Domestic VET	Non-VSL students at private providers	Not covered
Domestic VET	Non-VSL students at Table A providers and government-owned providers	Not covered

TPS is administered by a statutory Director with institutional support

The TPS is administered by the TPS Director, a statutory position. The Director is supported by the TPS Administrator, a contracted service provider; TPS Operations, a branch of the department which reports

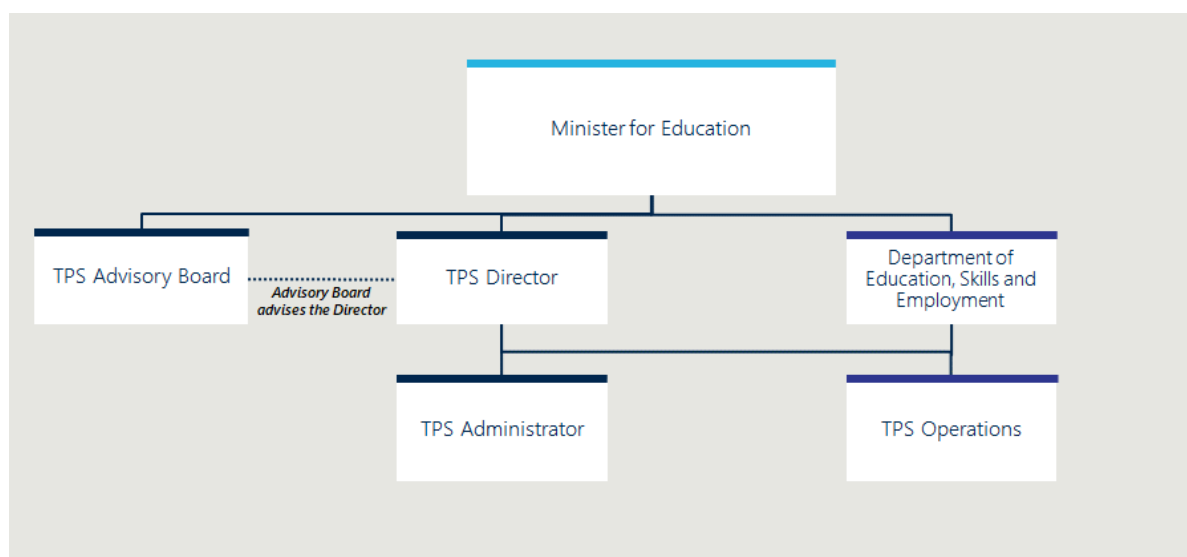
³ Government tuition protection arrangements do not apply to Table A providers (i.e. public universities) and government-owned providers. This is because these providers are considered to have a low risk of defaulting, and in the event they do default, are considered to have the capacity and capability to place students in suitable replacement courses, or refund or re-credit students, without the assistance of the TPS. In addition, government-owned providers approved under the HES Act and the VSL Act have conditions of approval which require them to assist students in the event they default.

⁴ Other providers may also be exempted from the tuition protection requirements under the HES Act or the TEQSA Act by Ministerial determination, where the risk of the provider defaulting is low and the provider has demonstrated that it has adequate processes and procedures in place to provide tuition protection to their students.

⁵ VSL students at providers other than Table A providers and government-owned providers are covered for the parts of the course for which they access a VET Student Loan. These students are not covered for parts of the course they pay directly to their provider, or which are paid using a state or territory subsidy.

directly to the TPS Director, rather than through departmental reporting lines; and the TPS Advisory Board. Figure 1 provides a high-level visual representation of the TPS's structure.

Figure 1 | TPS structure



Text alternative for TPS structure

The **Minister for Education** (currently Minister for Education and Youth) appoints the TPS Director and the TPS Advisory Board's Chair, Deputy Chair, and members.

The Minister is also responsible for setting the administration fee components of the TPS levies (and base components for international – see Figure 2). The amount set takes into account the sustainability of the fund and any other matters deemed appropriate by the Minister. The other TPS levy components – the risk rated premium component and the special tuition protection component – are set by the TPS Director by legislative instrument, drawing on advice from the TPS Advisory Board and AGA, and analysis from TPS Operations and the departmental policy teams, and subject to agreement of the Treasurer.

Under the Acts, the **TPS Director** is appointed on a full-time basis and is responsible for overseeing the operations of the TPS. The TPS Director's remuneration is determined by the Remuneration Tribunal and is paid out of the three funds.

The **TPS Director's** responsibilities include:

- overseeing student placements, payments to providers for accepting students affected by a provider default and refunds and recredits to students
- managing and ensuring the sustainability of the three funds
- determining the risk rate premium component and special tuition protection component of the annual TPS levy amount to be paid by providers
- reporting to the Minister for Education and Minister for Skills on the operation of the TPS and financial status.

The **TPS Advisory Board's** role is to provide advice and make recommendations to the TPS Director in relation to certain elements of the annual TPS levy amount for each fund. The TPS Advisory Board's role and responsibilities are clearly set out in the legislation and are narrow in scope.

The legislation stipulates the TPS Advisory Board must have a representative from each of:

- Department of Education, Skills and Employment
- Department of Finance
- Department of Home Affairs
- Australian Government Actuary
- Australian Prudential Regulation Authority.⁶

It also includes up to seven other members appointed by the Minister for Education on the basis of qualifications or experience that the minister considers relevant to the performance of the Board's function.

Board members are appointed on a part-time basis, are given a two-year term and must convene at least twice per year.

The **TPS Administrator** is contracted by the TPS Director to provide one-on-one support and individual case management to students whose education provider has defaulted.

The current TPS Administrator is engaged on a three-year contract which commenced in July 2020, with a fee structure that combines a fixed monthly retainer, a 'per activation' component and a 'per student' component.

TPS Operations is staffed by departmental employees. It provides policy and administrative support to the TPS Director, secretariat support to the TPS Advisory Board and contract management for any consultants engaged by the TPS Director.

There are **three key departmental policy teams** (responsible for VSL, HE and international education) that sit within the department and outside of the TPS. These teams are responsible for setting and administration of the policy for their respective educational sector. These teams work closely with each other and TPS Operations to establish the legislative instruments for each levy and manage appointments to the TPS Advisory Board.

TPS consists of **three funds**: the Overseas Students Tuition Protection Fund; VSL Tuition Protection Fund; and HE Tuition Protection Fund. The target size of each fund is determined by the TPS Director, based on advice from the TPS Advisory Board.

The funds are structured as Special Accounts which are funds that notionally set aside an amount that can be expended for limited purposes. Special Accounts remain available until the establishing legislation is repealed and the payment purposes of these accounts are specified in the legislation. Under TPS legislation, funds are not invested. They do not return interest or its equivalent.

The domestic funds have not yet collected any levies, as these were waived in 2020 and 2021 due to the COVID-19 pandemic.

In addition to levies, the TPS Director uses other levers to protect the funds and student interests, including:

- negotiating with providers to arrange bulk transfer deals of displaced students to replacement providers, saving money via cases that would otherwise be handled by the TPS Administrator, at cost to the fund.
- placing strong emphasis on engaging with the sector and other stakeholders (e.g., regulators) to identify and monitor potential default risks before they take place.

⁶ The ESOS Act lists the government agencies that must be represented on the Advisory Board in generic terms, for example referring to "the Department administered by the Minister administering the VET Student Loans Act 2016." In this list we have used the current name of the relevant department, for clarity.

Table 3 | Summary of TPS funds

	Overseas Student Tuition Fund (OSTF)	VSL Tuition Protection Fund	HE Tuition Protection Fund
Year commenced	2012	2020	2020
Fund balance	\$46.4M as of 30 June 2021	\$6.0M as of 30 June 2021 ⁷	\$4.4M as of 30 June 2021 ⁸
Current target range	\$35M-\$65M	\$5.9M-\$7.8M	\$21M-\$25M
Total student claims ⁹	\$13.8M between 1 July 2012 to 31 July 2021	\$0	\$0

Levy payments are designed to reflect providers' benefits and risks

TPS levies are set out in relevant legislation and are made up of multiple components designed to reflect providers' benefits, costs and risks.

International Levy

Administrative fee component to cover the ongoing costs of administering the TPS for the relevant sector.

Base fee component recognises the reputational benefits to the sector of a robust and sustainable tuition protection arrangement.

Risk rated premium component to cover the actual cost of assisting students in the event of a provider default.

Special tuition protection component to be charged in the initial years where the funds are below their target size.

VSL, HELP and Upfront Payments Levy

Administrative fee component to cover the ongoing costs of administering the TPS for the relevant sector.

Risk rated premium component to cover the actual cost of assisting students in the event of a provider default.

Special tuition protection component to be charged in the initial years where the funds are below their target size.

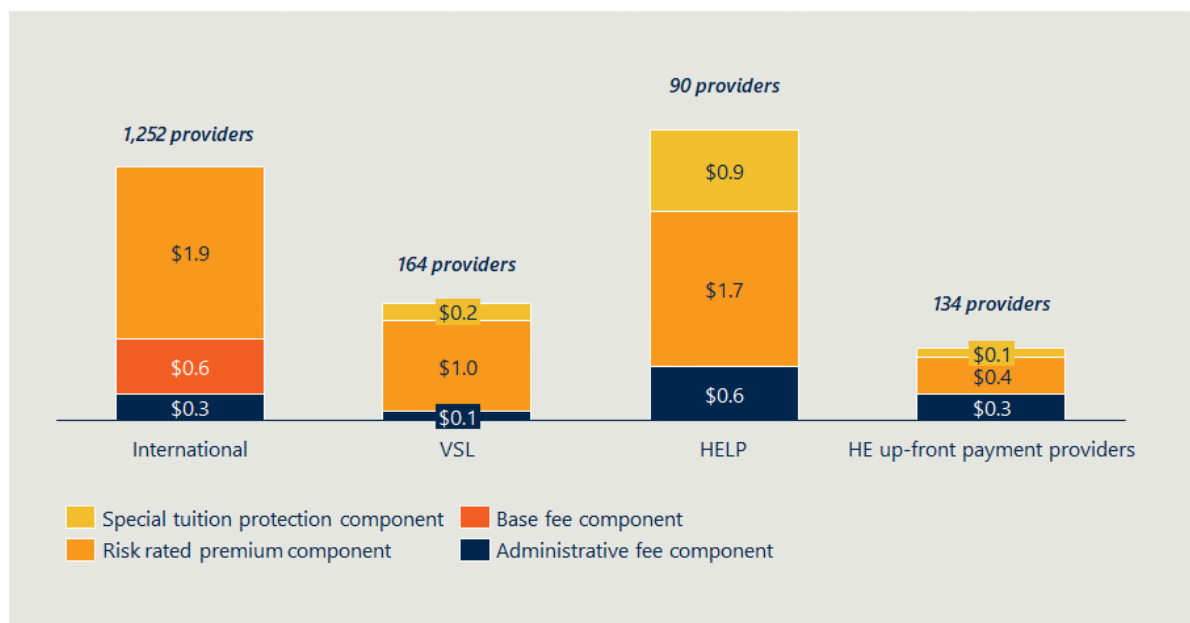
Both the total volume of levies and the mix of components varies across international and domestic sectors, reflecting the different characteristics of sectors, and different levels of maturity of each fund. This can be observed in Figure 2 where the composition and the amount collected for each levy component differ among the sectors.

⁷ In 2019-20, the Commonwealth provided \$3M of repayable seed funding. In 2020-21, the Commonwealth provided \$1M in repayable seed funding, \$0.5M of non-repayable funding to replace forgone revenue from TAFE/Government providers and an additional \$2.7M in repayable seed funding in lieu of the waived 2020 levies.

⁸ In 2019-20, the Commonwealth provided \$1.5M of repayable seed funding. In 2020-21, the Commonwealth provided \$1.5M of repayable seed funding and an additional \$3.6M in repayable seed funding in lieu of the waived 2020 levies.

⁹ Does not include Administrator Fees.

Figure 2 | TPS 2021 annual levy amounts, by sector (\$M)^{10, 11}



Text alternative for 'TPS 2021 annual levy amounts, by sector'

Among providers, debates around the TPS have centred on the appropriateness of low-risk providers such as universities, TAFEs and government schools subsidising the costs of high-risk providers. Under the ESOS Act, all providers are required to pay levies, but certain low-risk categories are not required to pay risk-rated components.¹² Under the HES Act, the VSL Act and the TEQSA Act, similar low-risk categories of providers are not party to the TPS arrangements.

In 2017, the ESOS Act was amended to allow the Minister for Education and Youth greater discretion over setting of levies. This responded to concerns that the size of the international fund had grown beyond what was required and led to a substantial reduction in levies paid by international providers.

¹⁰ Note that domestic levies were waived in 2021. Calculated levies are shown here to illustrate differences between international, VSL and HELP providers. The figures exclude the government contributions provided to VSL and HELP in 2021.

¹¹ Source: 2021 VSL levy admin and risk settings data provided by the department; 2020 HELP levy admin and risk settings data provided by the department; and TPS Annual Levy Data Report for all providers (international) 2021. Data for number of providers is based on Q4 2021 and was supplied by the department.

¹² This group includes Table A Providers approved under the HES Act; government schools; and State/Territory VET institutions

3 Assessment of tuition protection arrangements

3.1 Suitability and design

3.1.1 TPS is a suitable tuition protection mechanism for international education

The TPS broadly comprises two mechanisms: a government-run, industry-funded, compensation fund; and a student placement service. While its placement functions are specific to the characteristics of education, the TPS is comparable to other legislated, industry-funded schemes that compensate consumers for costs incurred as a result of provider misconduct, in relation to significant household purchases (e.g., property, vehicles).

Regulatory orthodoxy over the recent decades has favoured economy-wide consumer protection measures over industry-specific approaches, in line with arguments that this provides for more consistent regulation, lower compliance costs and reduced risk of regulatory capture. Industry compensation funds in particular have been subject to close scrutiny: in 2015, the Travel Compensation Fund was disbanded, following a 2010 review which found its costs outweighed the risk of consumer detriment and represented disproportionate regulation relative to other industries.¹³ However, in international education, the TPS and its predecessors have been maintained and in fact strengthened over the past 30 years, through multiple reviews and reassessments. Throughout this history, there has been broad acceptance of the case for government intervention to provide tuition assurance. The rationale for this includes:

- information asymmetries, with students having less understanding of the risk of provider failure than providers
- the externalities of consumer detriment, which have a negative impact on Australia's broader reputation in the international education market
- the potential vulnerability of consumers, given the relatively large amounts of money at stake, the nexus of study arrangements with visa arrangements and difficulties accessing remedies through general consumer protection arrangements.

Fully assessing the appropriateness of the TPS as a government compensation fund and placement service, compared to alternative models of government intervention, requires a detailed study of costs and benefits, including an understanding of providers' and students' willingness to pay for tuition protection, and the value of reputational benefits conferred by the current TPS. Such analysis is beyond the scope of this review. In our view however, the TPS remains a suitable program in international education, for several reasons:

- **Underlying rationale for intervention remains.** Some of the underlying rationale for the TPS has changed since the enactment of the original ESOS Act. Information technology has arguably reduced the extent of information asymmetries, giving overseas students greater ability to understand risks and impacts of closure. However, in practice, we heard from stakeholders that most students remain dependent on narrow sources of information, especially education agents.

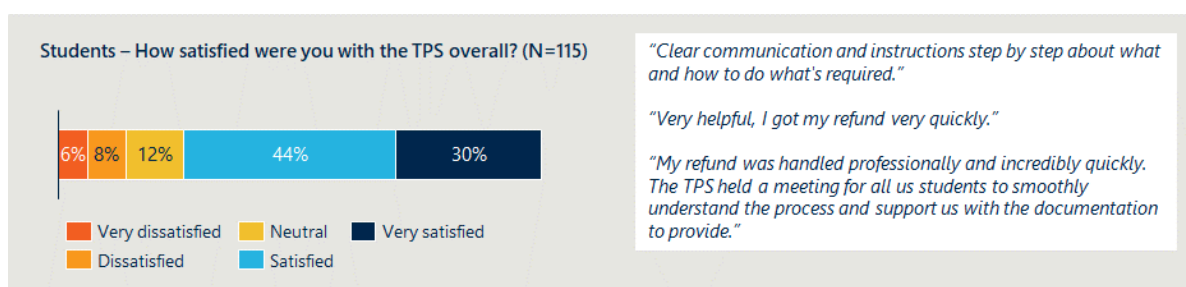
¹³ PricewaterhouseCoopers, 'Review of consumer protection in the travel and travel related services market.', Standing Committee of Officials of Consumer Affairs (SCOCA), 2010, https://treasury.gov.au/sites/default/files/2019-03/Final_Report_Review_of_Consumer_Protection_in_Travel_Industry.pdf

Broader changes to the ESOS framework in 2012, involving reregistration of all current providers, may have reduced the likelihood of students being affected by provider closure, with providers less likely to breach their obligations to provide re-placements or refunds in the event of default. However, these changes are relatively recent, and the impact of a systemic event on providers and students under current arrangements – including the impacts of COVID-19 – are still unknown.

On balance, our view is that changes over time have not sufficiently mitigated the underlying risks and impacts to students to substantially lessen the rationale for intervention.

- **Current arrangements are effective.** Throughout the Review's engagement with stakeholders, there is broad consensus that the TPS provides effective tuition assurance and supports Australia's reputation in international markets. Of the 30 international providers who provided a submission, only two disagreed with the statement that *"the TPS provides reliable and sufficient tuition assurance for eligible students"*; and most agreed that the TPS enhances Australia's reputation among prospective students to some extent. Most students who responded to our survey were satisfied with the experience of dealing with the TPS (Figure 3). This limits the impetus to pursue alternative arrangements.

Figure 3 | Students – How satisfied were you with the TPS overall? (N=115)



- **Several alternatives have been tried and tested.** In assessing the high-level design of potential tuition assurance arrangements, it is useful to consider the potential benefits and costs of alternative approaches. However, previous iterations of international education regulation in Australia have used many of the alternatives that could be considered, such as provider trust accounts; industry-run TAS; private insurance; and bank guarantees. Each of these has proven ineffective or insufficient.¹⁴
- **Little desire for change among stakeholders.** Throughout the Review's engagement with stakeholders, including departmental representatives, industry peak bodies, providers and students, there has been limited desire expressed for change. Among providers who made a submission to the Review, most stated that their preferred arrangement for tuition protection was a *"government scheme with required membership, such as the TPS"*.
- **Policy stability has value in the current context.** Finally, the international education industry is currently facing substantial uncertainty, both regarding the size and speed of the immediate post-COVID-19 recovery, and longer-term changes to respond to policy change among competitor countries, and domestic developments in source countries. Under these conditions, there is substantial risk in materially changing the regulatory and consumer protection framework – especially if that change could be perceived as weakening consumer protection.

The Review has identified a range of opportunities to improve the design, effectiveness and efficiency of the TPS, including as it applies to international education. However, the high-level design elements of a

¹⁴ B Baird., Stronger, simpler, smarter ESOS: supporting international students (Review of the ESOS Act 2000, Commonwealth of Australia, 2010. https://internationaleducation.gov.au/regulatory-information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Review/Documents/ESOS_REview_Final_Report_Feb_2010_pdf.pdf

government-run compensation fund and placement service are broadly suitable, and not priorities for reform.

3.1.2 TPS may not be suitable for domestic students

TPS was expanded to domestic students to address tuition assurance weaknesses exposed by VET FEE-HELP

The TPS was expanded to cover domestic students through the *Education Legislation Amendment Act 2019*, which extended coverage from January 2020 to HE students at private providers deferring fees through a HELP loan, and VET students at private providers deferring fees through a VSL.¹⁵ From 1 January 2021, coverage was further extended to up-front fee-paying HE students at private providers through the *Education Legislation Amendment Act 2020*. The arrangements for the two new schemes closely mirrored the previously existing TPS, including sharing the same TPS Director and TPS Advisory Board, and broad framework for setting levies. Two new funds were established: the VSL Tuition Protection Fund and the HELP Tuition Protection Fund (later renamed HE Tuition Protection Fund).

Drivers for this expansion included:

- the large number of students adversely affected by provider closures following tightening of program requirements and increased compliance activity towards the end of the VET FEE-HELP scheme, which highlighted limitations in existing tuition protection arrangements
- the perceived need for replacement tuition protection options for VET and HE providers following closure of the two major private tuition assurance schemes in 2017 and 2019 (government-managed interim arrangements were in place from January 2018)
- broader reform activity in the VET sector which highlighted weaknesses in consumer protection, including in the Braithwaite and Joyce reviews^{16, 17}
- the Baird Review's recommendation that the Australian Government explore harmonising tuition protection arrangements for domestic and international students.¹⁸

While the policy rationale for the TPS expansion can be partly identified from a range of sources and documents, including the legislation, relevant parliamentary scrutiny reports and Ministerial statements, discussions with stakeholders who were involved in the policy development process for the expansion, suggest there were multiple policy rationales for the expansion, including:

- strengthening consumer protection arrangements for students
- protecting the Commonwealth's investment in loans, by supporting students receiving loans to complete their education in the event of a default

¹⁵ For VSL students, TPS only provides coverage for the loan component of fees – that is, it does not cover any 'gap fees' charged by providers over and above the VSL loan cap amount for each course.

¹⁶ V Braithwaite, All eyes on quality: Review of the National Vocational Education and Training Regulator Act 2011 report, Commonwealth of Australia, Canberra, 2018, <https://www.dese.gov.au/review-national-vocational-education-and-training-regulator-act-2011/resources/all-eyes-quality-review-national-vocational-education-and-training-regulator-act-2011-report>

¹⁷ S Joyce, Strengthening Skills: Expert Review of Australia's Vocational Education and Training Students, Department of the Prime Minister and Cabinet, Canberra, 2019, <https://www.pmc.gov.au/resource-centre/domestic-policy/vet-review/strengthening-skills-expert-review-australias-vocational-education-and-training-system>

¹⁸ B Baird, Stronger, simpler, smarter ESOS: supporting international students (Review of the ESOS Act 2000, Commonwealth of Australia, 2010. https://internationaleducation.gov.au/regulatory-information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Review/Documents/ESOS_REview_Final_Report_Feb_2010_pdf.pdf

- protecting the Commonwealth's reputation, as the approver of providers for VSL
- providing consistency in tuition protection arrangements across different student cohorts
- convenience and efficiency of aligning with an existing successful mechanism
- reducing burden for multi-sector providers who might otherwise require multiple tuition protection arrangements for international and domestic students.

During the policy development process, other options were considered including:

- maintenance of the previous model, with TAS schemes supported by stronger rules and compliance under VSL than under VET FEE-HELP
- expansion of the market to allow additional TAS operators
- development of a new commercial insurance product for providers
- no industry-specific tuition assurance arrangements.¹⁹

Rationale for TPS for domestic students is questionable and other lower-cost alternatives may exist

In the less than two years since TPS was expanded to domestic students, there have been no domestic activations and no levies collected. Accordingly, it is too early to assess the effectiveness of TPS for domestic students.

However, considering the current policy and regulatory context for VET and HE, as well as the stated and implicit rationale, it is not clear whether the TPS is appropriate for domestic students on an ongoing basis. There are several potential challenges to its suitability:

- **Broader regulatory improvements reduce the risk of closure and non-compliance.** The market context for domestic students, and in particular VET students, has changed significantly since the domestic expansion was planned. The VSL program has significantly reduced risks of providers defaulting and failing to meet their obligations – in particular, through the far more stringent entry requirements. While this effect was anticipated during planning for the initial expansion, there is now some real-world experience, in particular the fact that there have been no VSL provider defaults since the expansion in January 2020.
- **There are grounds for a differentiated approach between international and domestic students.** One argument in favour of TPS for domestic students is that all students should have the same entitlement. For example, the Braithwaite review noted that different arrangements for international and domestic students “*make it difficult for students to navigate the system [and] also create inequities*”.²⁰ However, there are important differences between international and domestic education, and a desire for consistency should only be one consideration among broader costs and benefits. Domestic students are on balance less vulnerable than international students: they do not face the acute risk of breaching visa conditions; and are arguably better placed to assess the risks and impacts of closure. The reputational impacts of provider closures are also different, with prospective domestic students likely to assign judgment to particular providers rather than the sector as a whole.
- **Commonwealth's investment in loans and reputation could be protected through lower cost alternatives.** One rationale for TPS coverage is that the Commonwealth, having provided interest-free

¹⁹ Consultation with department staff.

²⁰ V Braithwaite, All eyes on quality: Review of the National Vocational Education and Training Regulator Act 2011 report, Commonwealth of Australia, Canberra, 2018, p91, <https://www.dese.gov.au/review-national-vocational-education-and-training-regulator-act-2011/resources/all-eyes-quality-review-national-vocational-education-and-training-regulator-act-2011-report>

loans to students under HELP and VSL, has an interest in seeing a return on that investment, by ensuring students complete their program of study. Related to this is the argument that in approving providers for VSL or HELP loans, the Commonwealth is endorsing the provider, and therefore has accountability for students' experience. However, the TPS is an intensive, high-cost mechanism for achieving these goals.

Moreover, potential alternative approaches exist, beyond those considered during the initial policy development process. Stakeholders engaged as part of the Review identified options including:

- **Providing displaced students with rapid, targeted, information and guidance about appropriate alternative course options.** This approach would not address the potential financial detriment to affected students but would support students to maintain their engagement and find an alternative provider – emulating some aspects of the 'placement' functions of the TPS. The extent to which this guidance was personalised and targeted would depend on availability of data – including student contact details, location and course information – and on the level of investment in appropriate systems. Such an approach could build on existing platforms such as MySkills.
- **Developing a leaner, stand-alone placement service.** This approach would establish a more intensive service to provide information, advice and guidance to students affected by closure to identify and access an alternative provider. This option could be operated through in-person or online channels, and could aim to actively target individual students, or promote availability as a general service.

These options would clearly provide less support and less additional protection to students, but they would also be substantially lower cost. On balance, they may represent a more proportionate response to the risks and harms faced by domestic students in the current VET environment.

The option of providing no additional industry-specific tuition assurance beyond that required in the *Standards for Registered Training Organisations (RTOs) 2015* (the RTO standards) and *Higher Education Standards Framework (Threshold Standards) 2021* (the HE Standards Framework), while more radical, may also be worth exploring in detail, in the context of a more stable industry environment. While these options would clearly provide less robust protection, they may represent a more desirable balance of costs and benefits.

Opportunity for lower-cost arrangements should be closely considered

The complexity and relative newness of current regulatory arrangements – particularly in the VSL sector – demands a cautious approach to any changes. Similarly, the experience of the international market suggests that tuition arrangements should be resilient to rare but high-impact systemic events – and so the evidence of one or two years should not be taken as conclusive. The Review does not recommend immediate pursuit of alternative tuition protection arrangements for domestic students. However, the risk environment has changed substantially in recent years, through the tighter participation requirements of the VSL Act and additional measures such as the role of the Commonwealth Ombudsman. The current arrangements should therefore be subject to ongoing scrutiny, as the broader context of risks, costs and benefits to students in domestic education in the post-VET FEE-HELP environment become clearer.

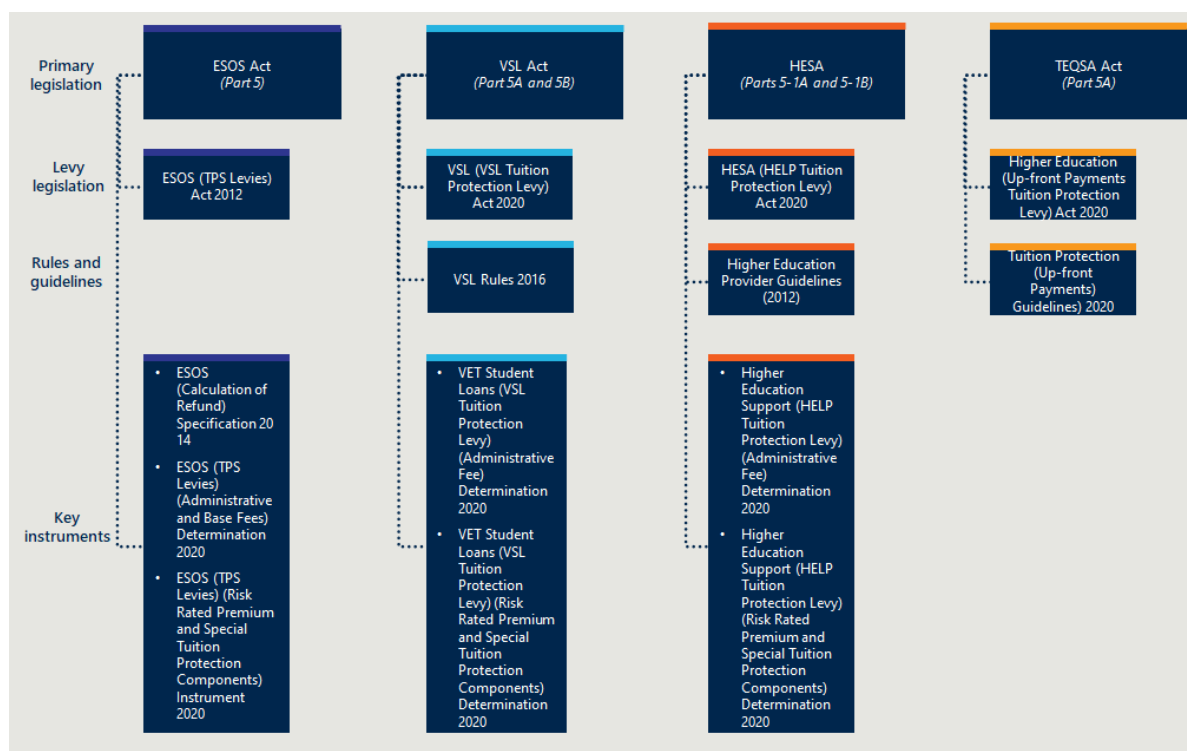
RECOMMENDATION

1. The department and TPS should monitor ongoing activity in the domestic TPS and broader industry, and regulatory developments in HE and VET and review the need for ongoing tuition assurance for those groups of domestic students into the future – including considering other lower, cost alternatives for tuition protection for domestic students.

3.1.3 Refining TPS legislation could simplify administration and improve student experience

The legislative basis for the TPS is complex, comprising multiple Acts and instruments embedded in broader primary legislation for each of its constituent sectors (Figure 4). There are several potential opportunities to improve current legislation – principally in relation to greater consistency across sectors where there is no strong policy rationale for difference. Overall, however, the legislative framework does not present a material barrier to effective delivery of the TPS.

Figure 4 | Overview of TPS legislative framework



[Text alternative to Overview of TPS legislative framework](#)

Alignment across sectors

The TPS legislation is broadly consistent across the constituent sectors, with the VSL, HES and TEQSA Acts having been substantially based on the pre-existing ESOS Act. Where there are differences, these mostly relate to inherent differences between the sectors. However, there are some differences between the Acts that seem unwarranted. All else being equal, consistency across the legislation is desirable for several reasons: it enables more efficient administration; supports clearer understanding and compliance for multi-sector providers; and supports equitable treatment for students. Potential areas for stronger alignment include:

- **Student choice between refund/recruit and placement.** Under the ESOS Act, TEQSA Act and HES Act, international and domestic HE students supported by TPS can choose between accepting the placement offered by the TPS; and receiving a refund or recruit.²¹ By contrast, VSL students may only

²¹ ESOS Act, subsection 49(3); TEQSA Act, subsection 62K(2)(b); HES Act, subsection 166-26B(4)(a).

Changing the method of calculation of international student refunds would likely have some associated costs, as at present there is no data source or process for assessing international students' payment linked to their attainment. However, given the clear disparity of current arrangements, the department should identify how this can be pursued most cost-effectively.

Table 4 | Calculations of refunds and recredits²⁵

International	VSL	HELP	HE Upfront
Refund only covers the number of days paid for but not delivered on pro rata basis. "Refund amount = weekly tuition fee x weeks in default period (i.e., number of calendar days from the default day to the end of the period to which the payment relates divided by 7)." 	Refund covers entire "affected part". TPS Director has discretion to determine what constitutes an affected part of an original course by considering all relevant evidence available to them e.g., AQF documentation, VET transcript etc.	Refund covers entire affected unit of study (subject equivalent). "If a provider defaults, they must re-credit a person's HELP balance with an amount equal to the amounts of HECS-HELP assistance that the person received for a unit of study. "	Refund covers entire affected unit of study (subject equivalent). "The provider must pay the student a refund of the amount equal to the sum of any up-front payments made for the affected unit."

Legislative framework

Some stakeholders raised the possibility of the TPS being consolidated in a standalone piece of legislation. Potential benefits of this include:

- improving the administrative efficiency of TPS
- promoting stronger focus on consumer protection as part of broader regulatory effort – especially in domestic sectors where consumer protection is not identified as a specific objective of the VSL Act, HES Act and TEQSA Act
- giving greater clarity and simplicity to multi-sector providers
- promoting better alignment and consistency of the TPS across sectors, where appropriate
- promoting greater independence for the TPS, including potential expansion of resources and powers.

On balance however, many of the potential benefits of consolidated legislation – in particular, alignment and consistency – can be achieved through review and amendment of current legislation. Others, such as greater independence or stronger regulatory powers, are not clearly desirable. Moreover, there are risks and drawbacks of consolidation. Removing TPS from the sector-specific legislation could undermine broader regulatory cohesion – in particular, that described under the ESOS Act.

²⁵ TEQSA Act subsection 62F(8), Education Services for Overseas Students (Calculation of Refund) Specification 2014, VSL Act, subsection 66F and 72A, Higher Education Support Act subsection 97-42

receive a recredit in the event the TPS does not find a suitable alternative placement.²² Discussions with departmental officials indicate that the policy rationale for this relates to the Commonwealth having a strong interest in VSL students completing their studies, and the view that given a choice, VET students are likely to choose a recredit in circumstances where it would be more beneficial to the Commonwealth that they accept a re-placement. It also reflects the view that VET programs are transferable and therefore student choice is of less significance.

This rationale, however, appears to give insufficient consideration to the inherent value of student choice. At worst, it could be interpreted as discriminating against VET students.

- **Providers' obligations to manage defaults in the first instance.** Under the ESOS Act, TEQSA Act and HESA, providers that default have an obligation to provide students with a refund or recredit; or place them in an alternative course.²³ TPS is only activated if the provider fails to discharge these obligations. However, the equivalent obligations are not placed on VET providers under the VSL Act. Stakeholders engaged with for the Review noted that this has the effect of unnecessarily shifting the burden of managing defaults from providers to the TPS. The Review has not identified a clear rationale for this discrepancy, although it is noted that under ESOS, the TPS Director may recommend that action be taken against a defaulting provider.
- **Calculation of refunds and recredits.** Refunds and recredits are calculated differently for international, VSL and HE students (Table 4). While this in part relates to differences between the sectors – in particular, differences in the structure of courses between VET and HE – it is also in part driven by cost considerations. To the extent that distinctions are driven by cost, these should be removed, to provide greater equality across different student cohorts.

Of most concern is the calculation of refunds for international students. Before 2012, students were entitled to a refund of all tuition fees paid. In line with recommendations of the Baird Review that this approach was unfairly burdensome to providers, the current ESOS Act changed refund eligibility to cover the portion of a course that has been paid for but not delivered or assessed.²⁴ Under ESOS, the Minister creates a legislative instrument specifying the method for calculating the amount of the refund. The current method adopts a 'pro rata' approach which calculates the number of days of the default period (paid for but not delivered). However, in many cases this places students at a disadvantage. If a period of study has not been completed, and the student has not received evidence of attainment, then it may be of limited value to the student – even if some days have been completed. This issue is particularly acute when the default occurs towards the end of a period of study: the refund may be small, despite the student not having obtained any credit for the component of the study completed.

By contrast, VSL and HE students may receive refunds or recredits for the entirety of the 'affected part' of their course. In determining the affected part, the TPS Director may consider a range of factors relating to students' attainment and evidence. This provides a fairer basis for determining the true value and cost to the student of the part of course paid for but not delivered.

²² H Ferguson, Education Legislation Amendment (Tuition Protection and Other Measures) Bill 2019 [and] VET Student Loans (VSL Tuition Protection Levy) Bill 2019 [and] Higher Education Support (HELP Tuition Protection Levy) Bill 2019, Bills digest, 449, 2019-20, Parliamentary Library, Canberra, 2019, p27.

https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdqs/6972101/upload_binary/6972101.pdf;fileType=application/pdf

²³ ESOS Act, subsection 46D; TEQSA Act, subsection 62F; the HES Act, subsection 166-25.

²⁴ B Baird, Stronger, simpler, smarter ESOS: supporting international students (Review of the ESOS Act 2000), Commonwealth of Australia, 2010, p56. https://internationaleducation.gov.au/regulatory-information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Review/Documents/ESOS_Review_Final_Report_Feb_2010_pdf.pdf

RECOMMENDATION

2. The TPS legislative framework should be aligned in three respects:
 - a. Offer VSL students a choice of accepting a placement or recredit, in line with choice currently available to other students under TPS.
 - b. Create obligation for VSL providers to provide recredit or replacement to students in the event of a default, in line with obligations for other TPS providers.
 - c. Amend calculation of refund for international students to better align with calculations for equivalent domestic sections and give TPS Director discretion to act in students' best interests.

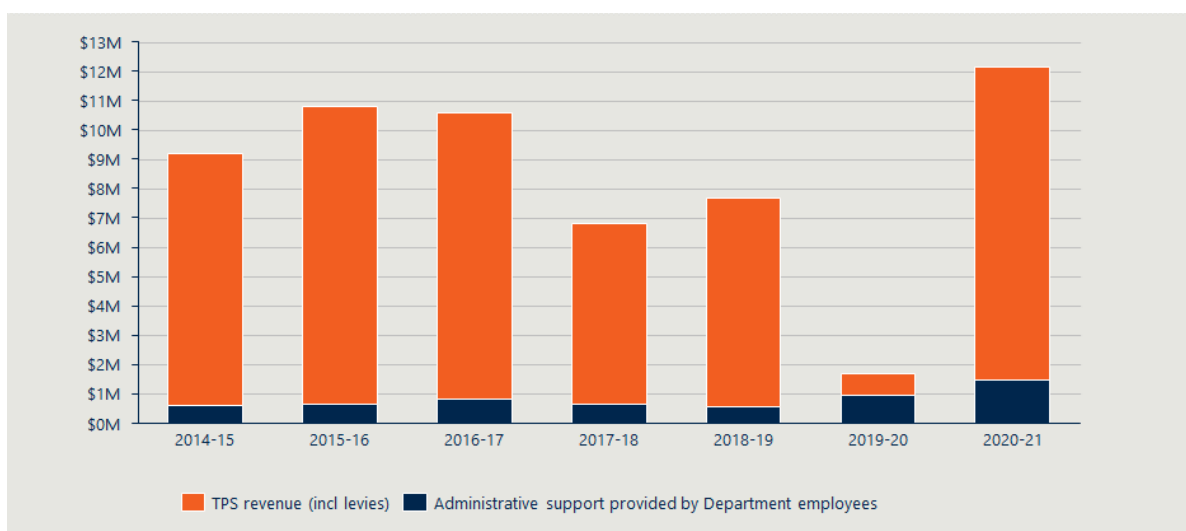
3.1.4 Funding arrangements should be clearer and simpler

The TPS's funding arrangements are a critical feature of its design. They are at the core of its aims of an industry-funded, risk-based approach. Key features of the current arrangements include:

- **TPS is predominantly funded by industry levies – with the exception of departmental administrative resources** (Figure 5). This reflects the underlying legislative intent that providers, not Commonwealth, should bear the cost of tuition protection.

One other **key exception**, applicable to the VSL fund only, is that the Commonwealth has made a commitment to provide an ongoing contribution to the VSL fund.

Figure 5 | TPS total funding, by source and year^{26, 27}



Text alternative to TPS total funding chart

- **Levies are broken down into various components to reflect different funding purposes, as well as the size and risk of providers.** This is a fair way to reflect the principle that all non-exempt providers

²⁶ Data provided by TPS Operations. 'TPS revenue (incl. levies)' includes TPS annual levy collected, and successful insurance claims approved for payment. 'Administrative support provided by Department employees' refers to expenditure on departmental administrative resources not funded by TPS levies.

²⁷ Levy collection for the OSTF was delayed in 2019-20 and collected in 2020-21. As such, the 2020-21 TPS revenue data includes the levies for 2019-20 and 2020-21.

benefit from TPS through its reputational benefits, while allowing for some fair sharing of costs based on risk.

- **Risk-rated components of each levy are determined by the AGA's actuarial analysis**, aimed at predicting the risk of failure based on historical data. In line with this approach, there are differences in the risk factors used across the three funds, reflecting different histories of provider failure.

International Levy risk factors

Base risk factor
Length of operation
Volatility in overseas student enrolments
Maximum overseas source country concentration
Non-compliance and registration renewal

VSL, HELP and Upfront payments levy risk factors

Financial strength
Completion rate
Non-compliance history

Stakeholders are broadly comfortable with current arrangements, although there is a strong sense among some providers that low-risk international providers such as government-owned institutions should pay lower or no levies. Among providers who made a submission, around one-third disagreed that they were paying a fair levy amount. While sympathetic to this position at the individual provider level, the Review broadly supports the principle of neutrality between state-owned and private institutions, with an appropriate risk-based approach. This reflects the reputational benefits that all international providers realise as a result of the TPS, as well as promoting a level playing field between providers.

Notwithstanding this, the Review has identified several potential areas for improvement:

- **Greater communication and transparency of levy calculation.** The TPS goes to some effort to provide transparency regarding the breakdown of levies – including providing worked examples at provider information sessions and showing amounts paid for different components on provider invoices. Among providers who made a submission to the Review, a majority indicated that they were satisfied with their level of understanding of how levies are calculated. However, some providers indicated they would like additional information. In the interests of ensuring a perception of transparency, TPS could potentially publish additional information on its website, including the rationale for each risk factor; alternative risk factors considered but rejected; and fund-level analysis showing breakdown of payments by components and risk factors across different sub-sectors (i.e., VET, HE, schools, ELICOS).
- **Simplify levy components.** Under the ESOS Act, international providers pay both an 'administrative fee component' designed to reflect the cost of administering the TPS; and a 'base component' designed to reflect the reputational benefits for all providers.²⁸ However, under the domestic legislation, there is no base component. In practice, the base component does not appear to serve a

²⁸ Parliament of the Commonwealth of Australia (2010-11), Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 – Explanatory Memorandum, p3.
https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r4675

clear policy rationale. In the interests of simplicity – especially for multisector providers paying both international and domestic levies – it should be removed.

- **Consider simplifying risk factors and calculations.** Under current arrangements, risk factors and their calculations are primarily determined by actuarial analysis, identifying predictors of failure based on available historical data. This is a highly credible approach, and the robustness of the process for considering and agreeing risk factors is a strength of the TPS. However, the approach also creates some challenges. First, it adds complexity to providers' understanding of the levy, which runs against principles of transparency and simplicity. Second, it may penalise or disincentivise certain providers and their business models in a potentially arbitrary way. For example, some stakeholders raised concerns about the use of source country concentration as a risk factor, which may penalise a legitimate, well-managed business risk. This is somewhat at odds with broader regulatory trends in the sector towards a focus on outcomes.

On balance, there is not sufficient evidence to recommend an alternative approach to determining risk factors. However, in setting future risk factors and calculations, the TPS Advisory Board and TPS Director should carefully consider impacts on provider behaviour, and weigh these up against the benefits of actuarial precision. This reasoning should be transparent and made available to the public on the TPS website as part of broader communications regarding levy calculations.

In addition, the department should explore arrangements to move TPS to a **fully industry-funded model**. Since 2014-15, industry levies have covered around 60% of the administrative costs of TPS (or around 90% of total TPS costs), with the remainder taxpayer-funded in the form of support from departmental staff.²⁹ In 2021-22, the budgeted cost of this departmental support is around \$1.8M. The rationale for this split can be interpreted as recognition that there are both public and private benefits from a well-regulated international education sector with effective consumer protection.

However, full industry funding would likely better reflect government charging policy, which states:

"Where specific demand for a government activity is created by identifiable individuals or groups, they should be charged for it unless the government has decided to fund that activity. Where it is appropriate for the Australian Government to participate in an activity, it should fully utilise and maintain public resources, through appropriate charging. The application of charging should not, however, adversely impact disadvantaged Australians."³⁰

Full industry funding would also be consistent with approaches in other areas of education regulation, such as recent transitions of TEQSA and Australian Skills Quality Authority (ASQA) to full cost recovery.

In the case of the TPS, it would also arguably better align practice with intended design. For example, the Explanatory Memorandum to the legislation creating the TPS states it is to be *"fully funded by the sector without the need for further government assistance."*³¹ In describing the role of the Administrator – funded by levies – it notes: *"the service provider will carry out the day-to-day management of the TPS, with the cost*

²⁹ Nous analysis of TPS financial data provided by TPS Operations. Note that full TPS financial data is only available from 2014-15.

³⁰ Department of Finance, Australian Government Charging Framework: Resource Management Guide No. 302, Commonwealth of Australia, 2015 https://www.finance.gov.au/sites/default/files/2021-03/RMG-302%20Australian%20Government%20Charging%20Framework_0_0.pdf

³¹ Parliament of the Commonwealth of Australia (2010-11), Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 – Explanatory Memorandum, p2. https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r4675

of this service to be recovered...".³² In practice currently, the department carries out much of the day-to-day management of TPS.

Preliminary discussions with the Department of Finance suggest formal cost recovery is likely to be unsuitable, given the challenges of recovering costs from the providers who create the need for the service – as many of them will no longer be operational. However, the existing TPS legislative framework potentially provides a strong basis for moving towards an informal approach to full industry funding, whereby costs are met by the industry as a whole rather than the individual organisations. Elements of such an approach could include:

- amending TPS legislation to enable funds collected for the Tuition Protection Fund to pay for services provided to the TPS Director by departmental employees
- using the existing administrative fee levy component to meet the full costs of administering the TPS
- developing a formal approach to costing departmental support, informed by the Australian Government Charging Framework
- preparing an annual statement setting out a costing and charging approach, and updated financial details, broadly equivalent to Cost Recovery Implementation Statements.

Consideration of moving to full industry funding would need to take account of potential risks and challenges including industry acceptance; cost of administration; and the value of the administrative fee levy component being small relative to the risk-rated component.

RECOMMENDATIONS

3. The TPS should publish more detailed information on the rationale for risk factors and distribution of levies collected across different components, risk factors and provider types.
4. The base component should be removed from the international levy.
5. The department and TPS should explore options for moving to a fully industry-funded model.

3.1.5 The TPS Advisory Board should be streamlined

The TPS Advisory Board is made up of five representatives of specific government agencies and seven Minister-appointed independent members, with a mix of education and broader commercial expertise. The aim of this composition is to ensure an appropriate range of views are factored into the TPS Advisory Board's recommendations to the TPS Director and the broader levy-setting process.³³ The Review team has identified two clear themes: first, that the TPS Advisory Board effectively enables a good diversity of views to feed into the TPS Director's decisions; and second, that the functions of the TPS Advisory Board could likely be delivered in a more streamlined way with fewer resources.

The broader process through which the TPS Director facilitates engagement of the TPS Advisory Board with TPS Operations and other stakeholders including regulators and sector peak bodies is thorough and effective. This includes:

³² Parliament of the Commonwealth of Australia (2010-11), Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 – Explanatory Memorandum, p3.

https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r4675

³³ Parliament of the Commonwealth of Australia (2010-11), Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 – Explanatory Memorandum, p3.

- TPS Operations developing comprehensive, timely briefings for TPS Advisory Board members, including advice from the AGA on levy-setting
- Board members agreeing specific aspects of risk and other focus areas for AGA analysis, with AGA reporting back
- sector regulators and peak bodies attending TPS Advisory Board meetings, to provide intelligence on market issues, trends and risks
- a staged approach to develop the levy over a period of months, with the TPS Director working to engage TPS Advisory Board members and other inputs extensively and iteratively.

In this way, much of the valuable input to the TPS Director's decision-making comes from the comprehensive, rigorous process of engagement with various sources, rather than the expertise of the TPS Advisory Board alone.

While there is no question that this degree of governance improves the quality of decision-making, there is a question as to whether it is proportionate. Other decisions that affect this sector, such as those made by the department, TEQSA, ASQA and others, are made with far less formal input. For example, under the VSL Act, the Secretary has power to approve VSL providers without formal external advice – decisions which arguably have a greater impact on sector stability and individual provider finances than the amount of the TPS levy.

The contributions of TPS Advisory Board members are also variable, with members having uneven expertise and understanding of the TPS. One government representative member indicated that there was limited value in their agency's role.

Taking these factors together, our view is that the practical value of the TPS Advisory Board could be achieved through less formal arrangements. This could involve, for example, the TPS Director leading an annual cycle of engagement with sector stakeholders, drawing on specific analytical expertise of the AGA and with supporting work and analysis conducted by TPS Operations. This would enable significant streamlining of the work of TPS Operations and TPS Director, including less time for TPS Director's personal engagement with TPS Advisory Board members; and less staff time developing briefing materials (currently approximately 1 FTE).

Our industry engagement indicates there is both limited understanding of the TPS Advisory Board's role and composition, and no strongly held view on its size and composition. It suggests that industry sentiment is unlikely to be a strong barrier to reform if a clear case for change can be made. However, removing the TPS Advisory Board altogether would likely be unpopular; among providers who made a submission to the Review, nearly half opposed removal of the TPS Advisory Board.

The presence of the TPS Advisory Board provides some value in signalling the independence of the TPS from usual government channels. This is important, because of the industry-funded nature of the program, and the importance of retaining industry support to its effective functioning. The TPS Advisory Board also provides some assurance of the breadth of input into the TPS Director's decision-making.

Taking these factors together, the Review supports some streamlining of the Board's membership, while retaining its overall functions and balance of representation. This is unlikely to generate material savings, as the costs of the TPS Advisory Board are a very small percentage of the overall administrative cost of the service.³⁴ It will also still require TPS Operations to generate board papers and briefing materials for meetings. However, it will generate some improvements in flexibility and capacity of the TPS Director, with limited risk.

³⁴ Nous analysis of TPS financial data, provided by TPS Operations.

RECOMMENDATION

6. Membership of the TPS Advisory Board should be reduced, moving over time towards five to seven members with broadly equal representation of government agencies and independent members, selected based on their expertise and experience.

3.1.6 TPS Director should remain an independent statutory role, for now

Under TPS legislation, the role of the TPS Director is defined as a statutory appointment, appointed by and reporting to the Minister, but an official of the department for the purposes of the finances. Features of the role include:

- responsibility for determining the annual amount of the risk rated premium component and special tuition protection component of the levy paid by providers (subject to the Treasurer's approval)
- accountability directly to the Minister for Education
- substantial flexibility to take actions to manage the TPS funds such that they can meet their liabilities
- expected to engage consultants to support delivery of functions (currently in the form of the TPS Administrator)
- supported by a team of departmental staff, reporting to the TPS Director rather than through departmental reporting lines (currently known as TPS Operations)
- since 2020, salary has been paid for from the TPS Funds.

Previous reviews of the TPS have recommended that the functions of the TPS Director role be brought into the department; and some stakeholders have suggested this could generate administrative and cost savings.³⁵ The Review has therefore considered this proposition.

Rationale for current arrangements

Under current arrangements, the statutory nature of the role ensures its functions are formally defined and transparent to all stakeholders, while the Ministerially-appointed nature of the role provides a degree of independence from the department.

These arrangements provide the TPS with independence from government in setting levies. The Review has not obtained a fully documented design rationale for this independence. However, discussions with relevant officials and a review of supporting documents indicate the aim was to strike an appropriate balance between the potential influence of industry and government respectively. This goal was influenced by the perceived failures of the predecessor ESOS Assurance Fund, under which contributions were effectively determined by the Contributions Review Panel, with substantial industry representation. Over time, these arrangements were felt to contribute to levies that were too low and the eventual undercapitalisation of the TPS Fund.

In this sense, the independence of the TPS Director role was intended to reduce the potential influence of industry, while conveying to stakeholders that it was equally independent of the potential interests of government.

³⁵ J Barber, Tuition Protection Service – Review of Governance and Administration, 2015.

Issues

In practice, the independence of the TPS Director has a range of potential advantages and disadvantages (Table 5).

Table 5 | Advantages and disadvantages of the TPS Director being an independent statutory role

Advantages	Disadvantages
<ul style="list-style-type: none">• Avoids conflict with interests of the department.• Strengthens perception of independence and absence of conflict among industry stakeholders, which potentially strengthens acceptance of decisions.• Enables dedicated focus on TPS objectives and functions.• Allows faster, more responsive activity, not subject to departmental processes.	<ul style="list-style-type: none">• TPS Director has limited influence over resourcing and investment for departmental support (including people and systems).• May be higher cost than a departmental employee conducting the same role (noting costs are borne by industry), depending on the alternative option chosen.• Sole TPS focus means cannot flex down role to accommodate other priorities, particularly during periods of lower TPS activity.

Our industry engagement suggests that the need to maintain a perception of independence from the department is not in itself a substantial barrier to change. Discussions with industry representatives suggested that while providers typically prefer an independent director, the strength of this preference is limited, and there is recognition that the tangible impact is small. Among providers who made a submission to the Review, the desire for an independent director was not widespread, with more than three quarters either supportive or neutral of the TPS Director being located in the department.

Options

To help inform consideration of the future of the TPS Director role, we have identified four illustrative options for the future of the TPS Director functions, which consider:

- the potential for the Director functions to be conducted either by an independent appointment (as is currently the case) or a departmental employee
- the potential for the Director role to be either full time (as is currently the case) or part time (Table 6).

Table 6 | Director role options summary

	1. No change	2. Blended SES role	3. Standalone SES	4. Convert to part-time
Description	N/A	Functions carried out by an SES1 employee, with other responsibilities. Total TPS time around 0.5 FTE.	Functions carried out by a dedicated SES1 role.	TPS Director role remains statutory but reduced to 0.8 FTE.

Total remuneration	\$249,420 ³⁶	\$101,000-\$156,000 ³⁷ <i>Approx. \$148k-93k saving.</i>	\$202,000-313,000 <i>Approx. \$47k-0k saving.</i>	\$200,000 <i>Approx. \$50k saving.</i>
Main impacts on TPS	N/A	Reduced focus on stakeholders. Less responsiveness relative to current arrangements, due to being subject to departmental processes. More flexibility to align effort with need as required. Streamlined administration in relation to appointments.	Less responsiveness relative to current arrangements, due to being subject to departmental processes. More flexibility to align effort with need as required. Streamlined administration in relation to appointments.	Reduced focus on stakeholders. Impact on role attractiveness.

While costs would in practice depend on the recruitment process, the order of magnitude of potential savings from different models is likely small. The impact on TPS students and providers, meanwhile, is uncertain.

Assessment

Our view is that the case for change at this time is not compelling. The likely savings are small and would accrue mostly to industry rather than government, as the TPS Director's costs are funded by industry levies. Potential operational improvements are possible, but likely to be offset or outweighed by disadvantages such as being less responsive due to being subject to departmental approval processes and competing for attention with other priorities.

Moreover, the timing of the Review means that the potential impacts of changing the role are uncertain. The impact of the TPS's expansion to domestic HE and VSL on TPS resourcing needs is not yet fully understood – in particular, the role of the TPS Director in managing activations. Furthermore, the individual in the role of the TPS Director has recently resigned, having carried out the role since its inception. It is therefore difficult to disentangle the effects of the underlying design of the role, from the attributes and performance of the individual in post to date. Under these conditions, changing the design of the role could have unintended negative consequences. This risk does not appear warranted by the likely small benefit.

Finally, two of the options considered entail a reduction in the TPS Director role to a part-time role. A detailed job-sizing exercise is beyond the scope of this Review, and the potential benefits of converting the role to part-time or combining it with an existing role appear limited. Nonetheless, further understanding of the potential impact of reducing the role to 0.6 or 0.8 FTE would be useful to inform future decisions regarding the design of the Director role. The department should investigate and identify these potential impacts, drawing on the experiences of a new individual in the role on an interim basis and informed by a more mature understanding of the impact of domestic expansion.

³⁶ Assumes TPS Director total remuneration of \$249,420 from Office of Parliamentary Counsel, 'Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2021', <https://www.remtribunal.gov.au/sites/default/files/2021-09/FTO%202021%20-%20Compilation%20no.%202.pdf>

³⁷ Assumes TPS Director full time equivalent salary range \$175,730-272,124, from Department of Education, Skills and Employment (2021), 2020-21 Annual Report, p247. Assumes superannuation contribution of 15%.

RECOMMENDATIONS

7. The TPS Director should remain an independent statutory role, appointed by the Minister.
8. The department should assess the impact on the effective operations of the TPS of converting the TPS Director to a part-time role – including attraction and retention impacts – to inform recruitment of the next substantive TPS Director in 2022.

3.2 Operations

3.2.1 TPS is operating effectively

The operations of the TPS are carried out by the TPS Director and TPS Operations, located within the department, and the TPS Administrator (a contracted external party).

The TPS Administrator is student-facing and assists students when their provider defaults. TPS Operations is provider-facing and is responsible for managing provider defaults and administering levies. While predominantly provider-facing, TPS Operations also helps find suitable alternative courses to place students in the event of a provider default and typically manages the more complex student cases.

Together the TPS Director, TPS Administrator and TPS Operations aim to work collaboratively to ensure that they can deliver the best possible outcomes to students, as well as provide a high standard of service delivery.

Students have generally praised the effectiveness of the TPS's operations

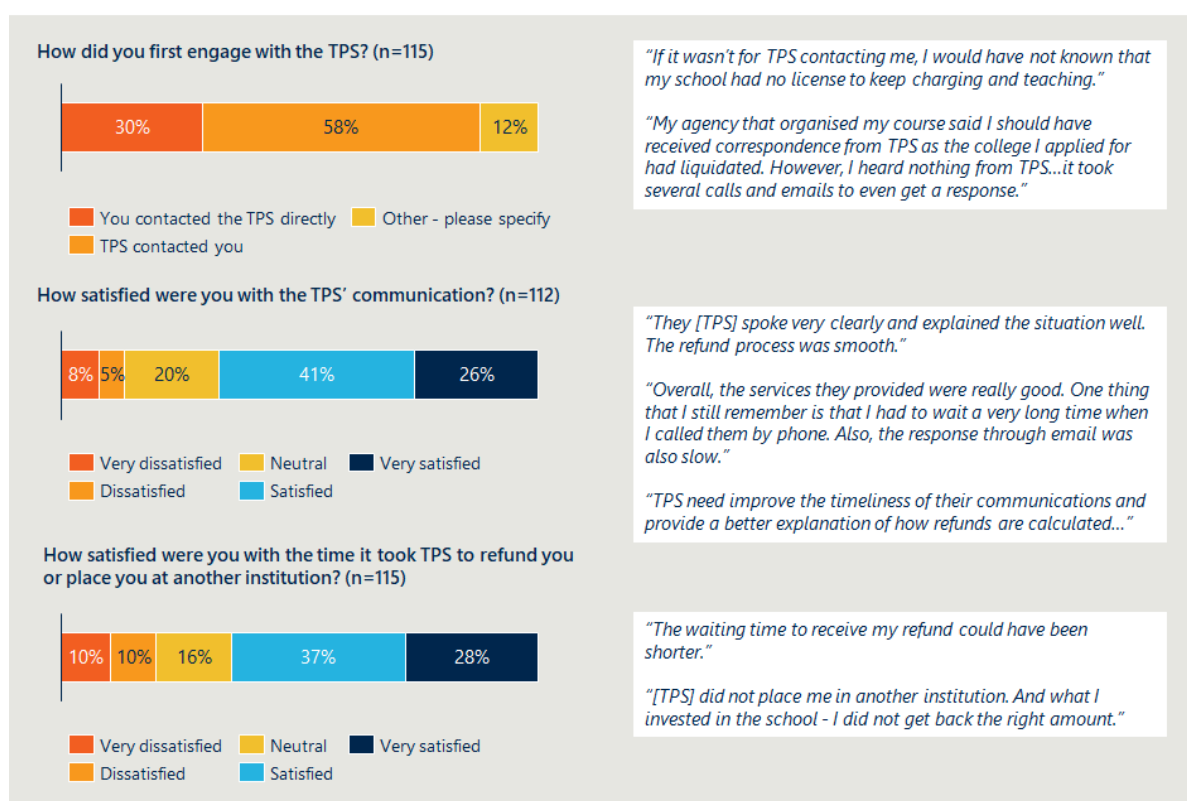
Among respondents to the Review's survey of students who have previously been supported by the TPS, approximately 58% were contacted directly by the TPS when their provider defaulted (Figure 6). Most of these students did not know their provider had defaulted when the TPS contacted them. This illustrates that the TPS has been proactive in reaching out to students and providing support early.

When it comes to TPS's communication with students, approximately 67% were very satisfied or satisfied, while only a small proportion was dissatisfied. Many survey participants complemented TPS on their clear, effective and timely communication. However, a small number shared that they experienced long delays in hearing back from the TPS; had to wait a lengthy time when calling via phone; and found the TPS's explanation of refunds unclear.

Based on the survey results, 65% of students were satisfied or very satisfied with the time it took for the TPS to refund or place them at another institution. There was about 20% who were dissatisfied or very dissatisfied. Based on the commentary provided, the main reason behind most students' dissatisfaction score was due to them not receiving a full refund. Notwithstanding this, there were a few students who said TPS's timeliness could be improved.

International students who participated in the survey indicated that the TPS should try to make itself more visible to international students. As an example, one survey participant shared: *"make TPS visible before we even need it, so we can feel safe that schools won't try to do anything dodgy."* Further, while most students surveyed indicated that they had no issues with speaking English, some departmental staff thought that it would be beneficial to develop TPS factsheets in different languages to make it easier for international students to interact with the TPS. The TPS Administrator also noted that language is a barrier to students using TPS Online.

Figure 6 | International student feedback on TPS's operations

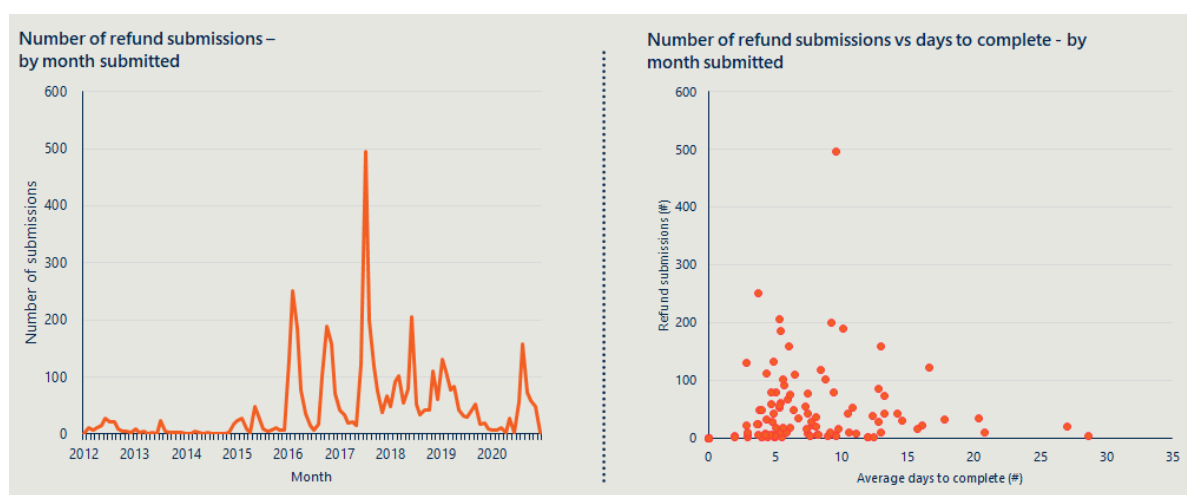


Text alternative for 'International student feedback on TPS's operations'

TPS's performance is resilient to high volumes of activity

One way of viewing TPS's effectiveness is to consider the extent to which its service delivery standards are maintained during periods of high volumes of activity. This is because of the inherently volatile nature of demand, which is substantially driven by individual provider events. Figure 7 illustrates this using one service provided by TPS: responding to requests for refunds. It shows that while there has been substantial volatility in the volume of these requests since 2013; there is no relationship between the volume of requests and the speed with which they are serviced. That is, there is no evidence that service times worsen as the service is busier. Similar patterns exist for other TPS services. This provides some evidence that TPS is resilient to spikes in service delivery, and that the current model scales well to increased volume, within the current scope and range of potential activity.

Figure 7 | Relationship between volume of requests and time to respond – refund requests³⁸



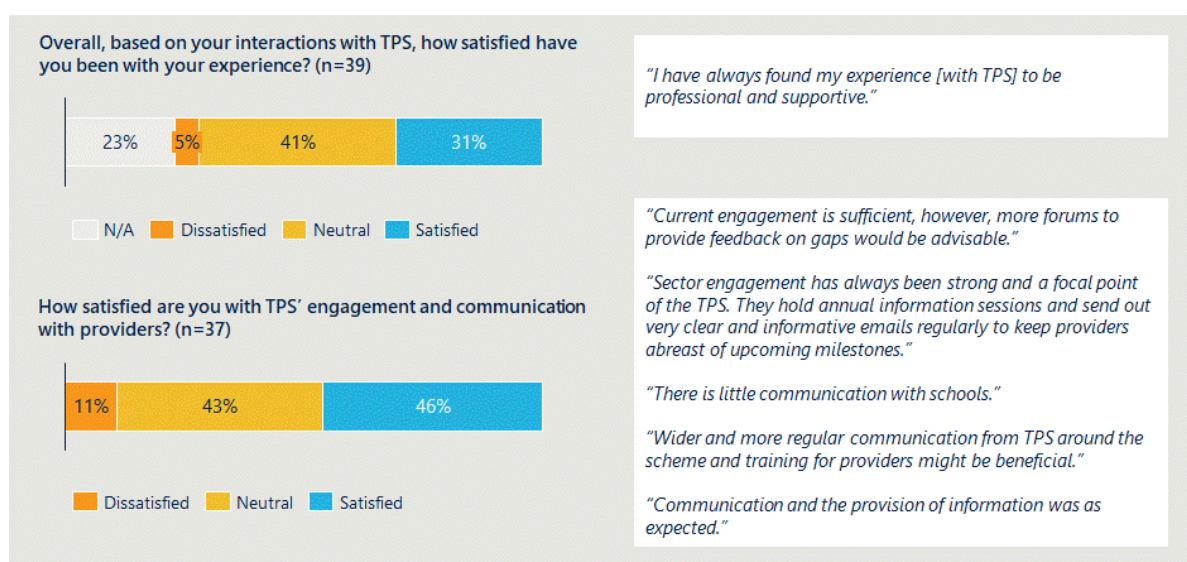
[Text Alternative for 'Relationship between volume of requests and time to respond' chart](#)

Providers who shared feedback for the Review indicated they were generally satisfied with TPS

Among providers who made a submission to the Review, only a very small number indicated they were dissatisfied with their experience with the TPS (Figure 8).

Overall, based on the providers who submitted feedback to the Review, the broad consensus was that most providers are satisfied with the experiences they have had with the TPS, and are happy with TPS's current level of engagement and communication with the sector.

Figure 8 | Provider feedback on the TPS experience, engagement and communication³⁹



[Text alternative for Provider feedback](#)

³⁸ Nous analysis of TPS refund and placement data, provided by TPS Operations.

³⁹ Provider TPS Online Submission Form. (2021). Developed by Nous.

While the TPS is operating effectively, there are some limitations to its overall effectiveness

The TPS has been able to deliver positive outcomes to students in a proactive and timely manner. However, there are some limitations to its effectiveness, specifically related to system and data quality challenges in the domestic space.

TPS primarily accesses student and provider data through existing systems and sources, however, the quality and comprehensiveness of the data varies between the domestic and international sectors, as well as between VSL and HE. As a result, processes developed for domestic TPS are manual and require additional data to be requested of providers. While future system developments may help address these issues (e.g., TCSI), it may be some time before these are in place.

The TPS Online system is currently only set up for international students and there is no complete system in place for the domestic sector. When the domestic expansion occurred, the operations team had minimal time to prepare, and an effective system has not yet been fully established. Nous is aware that the development of a system is in progress. The TPS advised that it is planning to begin with a system for VSL and then expand to include HE. At present, TPS Operations use Excel databases and other manual processes as a workaround to the domestic system challenges.

Finally, while TPS Operations is a self-described student-focused service, it currently does not systematically track student satisfaction and experience data and use this to refine and improve service delivery. Student satisfaction data was not available to the Review, and we were dependent on a one-off survey conducted for the Review to provide us with information on student sentiment.

RECOMMENDATIONS

9. TPS Operations should develop TPS student factsheets and identify translation and interpretation options to support use of TPS Online for students with limited English language skills.
10. TPS Operations should capture and review student satisfaction data more regularly, to help refine and improve service delivery.

3.2.2 The TPS is generally being delivered efficiently, with some opportunities for improvement

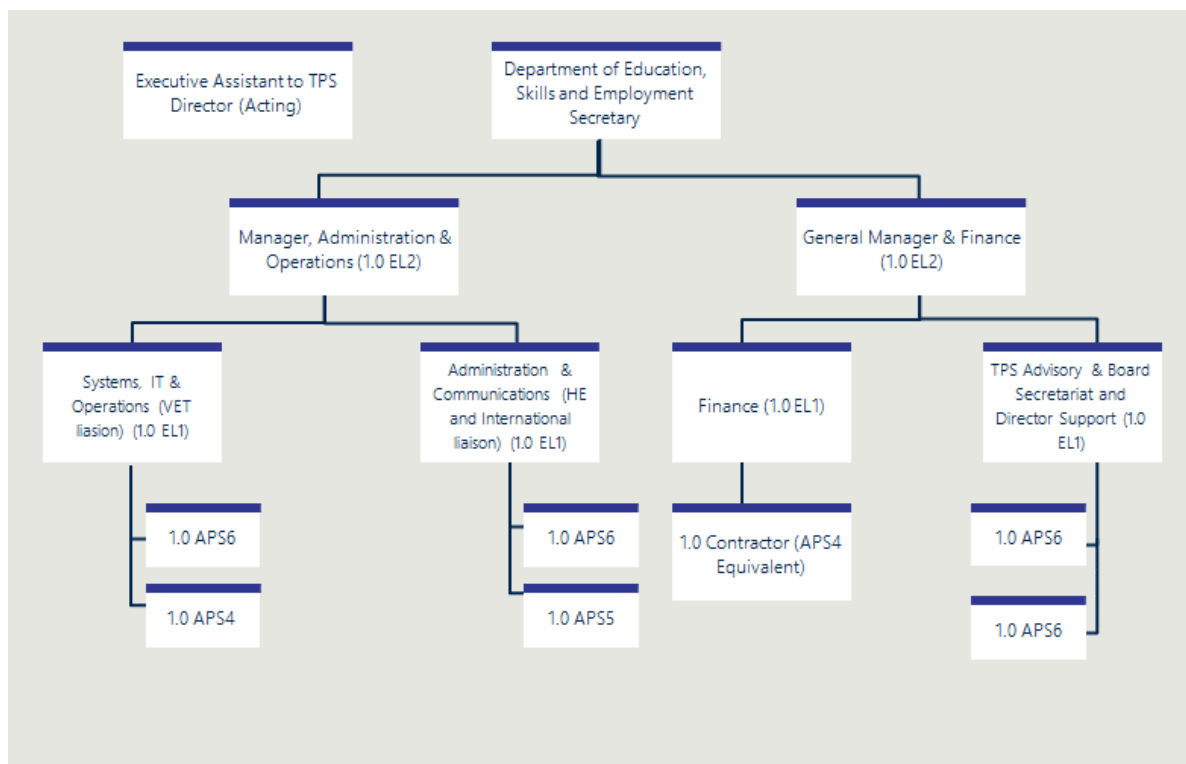
TPS Operations is responsible for delivering the 'operational' aspects of TPS.

TPS Operations' broad goal is to provide policy, administrative and operational support to the TPS Director and TPS Advisory Board. Its functions include:

- **Systems, IT and Operations** – responsible for managing provider defaults, carrying out contract management of the TPS Administrator, developing standard operating procedures and liaising with relevant policy teams within the department.
- **Administration and Communications** – responsible for assisting with levy collections, and provider defaults, managing the TPS Operations inbox, communications with students, provider complaints, and liaising with the HE and international education policy teams.
- **Finance** – responsible for managing the special accounts (including cost allocations, forecasts, balance tracking), and processing TPS Advisory Board's reimbursements and remuneration, and the TPS Administrator's invoices.

- **TPS Advisory Board Secretariat and Director support** – responsible for developing the board advice papers and legislative instruments, managing board member remuneration, board meeting logistics and administration, and providing support for TPS/ASQA/TEQSA meetings.

Figure 9 | TPS Operations structure⁴⁰



Text alternative for TPS Operations structure chart

There is some overlap in activities between the Systems, IT and Operations, and Administration and Communications teams (i.e., the management of provider defaults) in the current structure. In practice, however, this 'overlap' is to: allow adequate leave coverage; minimise single points of failure; and ensure that in the event of a significantly large number of providers defaulting, the majority of the team has the skills and knowledge to assist.

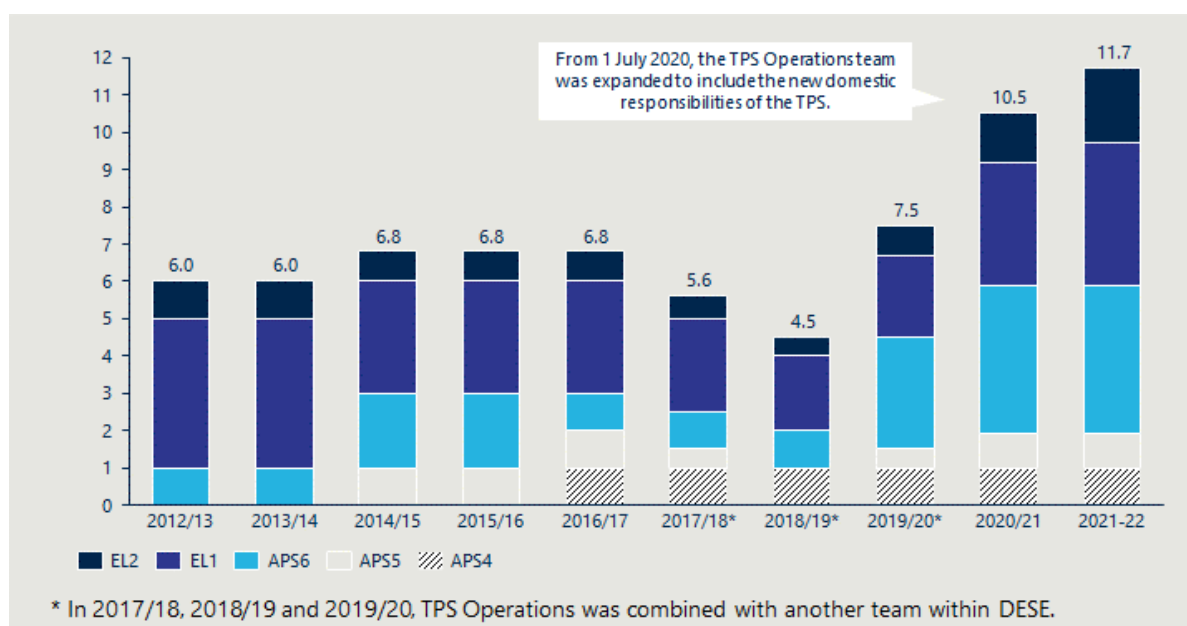
As illustrated in Figure 9, the team allocates in the order of 2.0 FTE to providing support to the TPS Advisory Board. Feedback from TPS Advisory Board members indicated that the support and information (e.g., board papers) provided by TPS Operations is exemplary and is significantly more comprehensive than what they typically receive from the boards of other organisations on which they sit. Further, departmental stakeholders indicated that while the board papers were extremely detailed and informative, the level of detail was not commensurate with the size of the TPS scheme. Our view, informed by stakeholder feedback, is that there is an opportunity for TPS to streamline the board papers and reduce the time spent servicing the TPS Advisory Board.

TPS Operations is staffed with 11.7 FTE departmental employees and 1.0 contractor

TPS Operations currently has a workforce of 12.7 FTE that are employed by the department on a permanent basis, except for 1.0 FTE who is employed on a contractual basis. Figure 10, overleaf, provides a summary of the TPS Operations team's FTE from 2012/13 to 2021/22.

⁴⁰ Provided by TPS Operations.

Figure 10 | TPS Operations resourcing from 2012/13 to 2021/22⁴¹



Text Alternative for Operations resourcing

From 2012/13 to 2016/17, the TPS Operation team's FTE was relatively stable (average FTE equal to 6.5 FTE). From 2016/17 to 2019/20, the team's FTE decreased by 2.5 FTE and was subsumed into a larger team. During this time, there was no observable reduction in performance from a time-to-deliver perspective. However, TPS staff advised that this reduction prevented work that would have ultimately reduced costs to the fund, such as negotiation of bulk student placements.

In 2020, TPS Operations' resourcing increased in line with the domestic expansion

As illustrated in Figure 10, in 2020/21, TPS Operations FTE increased by 6.2 to accommodate the responsibilities of the new domestic funds. This saw the team double in size, as it was assumed it would require a similar amount of FTE to the OSTF Fund to be able to manage the newly created funds.

As the domestic side of TPS is relatively immature, the team to date has focused on setting up the processes, procedures and systems required to provide TPS to the domestic sector. Given the considerable amount of work involved, the team's current resourcing appears to be appropriate for the time being.

However, once the establishment of the domestic side is complete and TPS Operations is in a 'steady state', we expect the team should be able to achieve some economies of scale across the international and domestic sectors. Moreover, while some of the work of the Operations team is driven by the number of funds – such as levy-setting – some of the work is driven by the volume of providers, such as monitoring and engaging with at-risk providers, and managing defaults. The number of providers in the VSL and HE sectors is significantly lower in domestic than in international (Table 7). Therefore, once the domestic funds reach maturity, it would be expected that the branch would not require a full doubling of resources to manage the domestic funds.

⁴¹ Tuition Protection Service FTE data as of 30 September 2021. (2020). Department of Education, Skills and Employment. Note: 2021 FTE data includes 1.0 FTE employed on a contractual basis at a APS4 equivalent.

Table 7 | Number of providers by sector

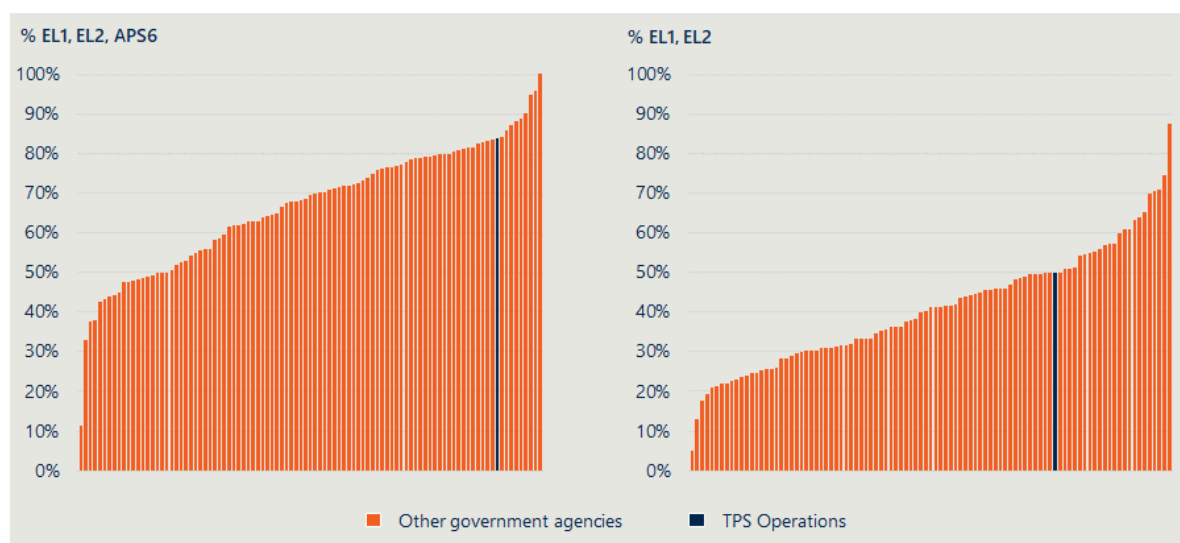
Sector	Number of providers	Proportion of total providers
International	1,252 ⁴²	76%
VSL	164 ⁴³	10%
HE	224 ⁴⁴	14%
Total	1,640	100%

There are opportunities to reshape TPS Operations over the longer-term to better align to the type of work it performs

Of the 11.7 FTE within TPS Operations, 5.8 FTE are classified as a EL1 (3.8 FTE) and EL2 (2.0 FTE). The remainder of the team comprises 4.0 APS6, 0.9 APS5 and 1.0 APS4. Therefore, approximately 50% of the team are in executive roles.

This represents a relatively senior staffing profile, relative to other APS agencies. The proportion of EL1 and EL2 roles is in the top 25% of agencies, and proportion of EL1, EL2 and APS6 is in the top 20% (Figure 11).

Figure 11 | APS agencies proportion of senior staff (n=96)⁴⁵



Text alternative for APS agencies proportion of senior staff chart

This suggests TPS Operations is somewhat 'top heavy,' particularly for an operational team. However, as noted above, given the uncertainty regarding the implementation of the domestic TPS, the department should retain the current profile for the time being.

⁴² TPS 2021 Annual Levy Data Report (PRISM). (2021). Supplied by TPS.

⁴³ Data for number of providers is based on Q4 2021 and was supplied by the department.

⁴⁴ Data for number of providers is based on Q4 2021 and was supplied by the department.

⁴⁵ APS Employment Data 30 June 2021 release. (2021). Australian Public Service Commission.

TPS Administrator is broadly effective but with potential future opportunities for improvement

Under the original TPS design, it was envisaged that the TPS Administrator would be responsible for day-to-day management of the service.⁴⁶ In practice, TPS Operations fulfils this role, with the TPS Administrator playing a core service delivery role.

The TPS Administrator predominately handles simpler cases (referred to as Tier 1 cases), while TPS Operations manage the more complex cases (referred to as Tier 2 and 3 cases), and provider engagement. 'Tiers' are not formally documented, although both TPS Operations and TPS Administrator report a clear understanding of the division of responsibilities.

While the TPS Administrator has certain contractual performance criteria and minimum service levels set by the TPS Director, these are mostly qualitative. One exception is in relation to resolving cases, which the TPS Administrator is expected to achieve within 30 days (international) and 45 days (domestic). However, in practice these are not used to closely monitor or improve performance. Contract management is exercised through monthly meetings of the TPS Director, TPS Operations and TPS Administrator; weekly reports; and comprehensive, detailed monthly activity reports. While limited data exists on which to assess the TPS Administrator's effectiveness, internal TPS stakeholders are broadly satisfied with its performance and role. The TPS Administrator contributes to overall student perceptions of TPS effectiveness reported above.

Discussions with stakeholders and review of relevant documentation suggest the rationale for outsourcing the TPS Administrator role under the current model includes:

- the need for flexible, scalable resourcing to respond to the volatile demands of the TPS
- a desire for perceived independence, in line with the independence of the TPS Director
- the legislative restriction on levy funds being used to pay for departmental staff.

However, through the engagement conducted as part of the Review, we have not identified any strong desire for, or awareness of, the TPS Administrator's independence; and elsewhere have recommended that levy funds be used to support departmental activity. Under the current model, the TPS Administrator's role does not require specialist skills or expertise not currently within other government and departmental service centres. The assumption that a single outsourced TPS provider is better able to scale up rapidly should be interrogated. The requirements for scaling up – including training of temporarily redeployed or casual staff – could potentially be undertaken by the department, by TPS Operations and/or existing service centres. Indeed, the department may well have the scale to absorb the volatility of TPS by combining delivery with other programs where needed. Taken together, the case for outsourcing may be weaker now and into the future, than it was at the establishment of the TPS. This will need to be considered by the department in the context of the contract renewal in 2023, once the implications of the domestic aspects of the TPS for operations are better understood.

Stakeholders have also identified some challenges with the current model, including a perception of it being expensive; and substantial effort being dedicated to contract management. The practice of the TPS Director reviewing the TPS Administrator's assessments, described above, also suggests a potential weakness in the current arrangements.

⁴⁶ Parliament of the Commonwealth of Australia (2010-11), Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 – Explanatory Memorandum, p3.
https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r4675

TPS should consider whether the benefits will continue to warrant the higher costs of contracting out, or whether an in-house model is preferred, in the context of the Administrator's contract renewal in 2023.

RECOMMENDATIONS

11. TPS Operations should reduce the time and effort spent on servicing the TPS Advisory Board.
12. Current resourcing levels and structure within TPS Operations should be maintained for now but reviewed once the domestic TPS arrangements have matured, and the requirements and activity levels are well understood.
13. Eliminate the duplication of activity between TPS Director and TPS Operations, and TPS Administrator.
14. Consider whether the benefits of outsourcing the TPS Administrator function continue to warrant the higher costs of contracting out, or whether an in-house model is preferred, ahead of the Administrator's contract renewal due in 2023.

3.2.3 TPS processes enable strong risk management and fund sustainability

The TPS faces a range of risks which threaten the ongoing success and sustainability of the scheme. These include: financial risks (i.e., the ability for the funds to cover claims over the long run); operational risks (i.e., the ability of the TPS to deliver its services to students and providers effectively and efficiently); and stakeholder risks (i.e., impacts on providers and the acceptability of TPS to industry).

The most significant of these is financial risk – specifically, the risk that an adverse systemic event might exhaust the funds. Consequently, the current TPS institutional arrangements are specifically designed to analyse, understand and primarily manage financial risk, and ensure sustainability. Comparatively, TPS's operational risk management approach is somewhat less developed. Going forward, the TPS may want to consider if and what actions it could take to improve how it manages operational risks.

Financial risk management approach

The two key elements of the TPS's approach to financial risk management are the actuarial analysis and advice provided by the AGA; and the rigorous, comprehensive approach for gaining broad stakeholder input into the TPS Director's decision-making.

The AGA recommends target fund sizes, representing an estimate of the funds needed to cover defaults based on the historical number and costs of closures. This approach includes:

- Assuming number of provider closures based on historical closure rates. Review of the historical closure data has informed a view that there is both an 'attritional' rate (a constant rate of individual providers) and a 'systemic' rate (representing a periodic event affecting large numbers of providers).
- Assuming average costs to the funds of provider failures. This is built up from sector and provider characteristics (e.g., number of providers, number of students); known costs (i.e., administrator fees); and historical data (e.g., proportions of students requiring refund/replacement).
- Assigning a 'multiple' to this amount, to reflect the potential for larger than average costs of individual failure.

The AGA's recommendation reflects consideration of other factors including financial impact on providers, industry acceptance and other risks such as 'large provider' risk (i.e., that closures might be concentrated among a small number of large providers). Target levels are reviewed annually.

The broader process for setting the levy ensures a wide range of expertise and intelligence is sought to inform the TPS Advisory Board's advice and the TPS Director's decision-making. TPS Advisory Board members have an opportunity to request the AGA to investigate specific matters and review draft advice. Regulators and sector peak bodies attend Board meetings to advise on industry perceptions and risks. The process takes place over several months, with opportunity for discussion, reflection and iteration.

Decisions regarding the amount of provider levies are hence informed by the current balance of the fund relative to its target range, as well as immediate industry issues. This represents a robust, appropriate approach for managing risk, combining technical analysis and judgement to balance the long-term sustainability of the funds with impacts on providers of levies in any given year.

Operational risk management approach

Beyond core financial risk, there are some lower-level operational aspects of risk management which could be considered as part of TPS's ongoing operations.

At present, TPS currently undertakes some measures to manage operational risk, including: comprehensive documentation of Standard Operating Procedures; formal risk management processes for the TPS Administrator; and monitoring of regulatory actions taken by regulators, to support early identification of risk. Notwithstanding this, there are some potential areas for improvement in TPS operational risk management approach:

- While the impact of COVID-19 has been relatively minimal to date, the pandemic highlighted the absence of a clear operational contingency plan to respond to a systemic event, that would stretch the demand on the TPS beyond the usual range of fluctuation. Such a plan could be a valuable tool to help ensure a rapid, comprehensive response to a future shock, minimising disruption to students and impacts on the funds, building on lessons from the COVID-19 response.
- While there are effective working relationships in place between TPS and national regulators – including Memorandums of Understanding (MoU) and lines of communication with TEQSA, ASQA and the Commonwealth Ombudsman – there may be opportunity for periodic strategic, senior-level discussions to ensure clear understanding of strategy, risks, roles and responsibilities. Our engagement with other regulators suggested variability in understanding of TPS's priorities and operations, and of respective roles. Higher-level, strategic engagement would better reflect that broader regulatory effectiveness is the largest risk to the TPS's financial stability.
- While the TPS demonstrates strong understanding and management of risks, it does not currently have formal processes and governance for risk management, such as setting the risk appetite, risk registers and defined ownership and accountability for specific risk. Proportionate development of these approaches will help ensure that risks are appropriately identified and managed, especially in the context of changing TPS personnel over time.

RECOMMENDATIONS

15. The TPS should develop contingency operational plans for a significant systemic event.
16. The TPS should establish formal, senior-level engagement mechanisms with regulators.
17. The TPS should develop and implement proportionate, formal risk management processes and governance.

3.2.4 Data collection arrangements are not unduly burdensome

Data collected by the TPS can broadly be divided into two categories: data to inform calculation of levies and risk factors, such as provider income, enrolments and financial information; and data to inform administration of an activation event, such as student contact details and course information.

Data adequacy

The Review has identified several areas where better data could improve performance.

For the international TPS, data arrangements are broadly adequate. This is both because the service has been operating for nearly ten years; and because the broader regulatory information requirements and data collection systems associated with the ESOS Act are comprehensive and mature. TPS Operations advises that access to regulatory compliance data – for example, in relation to providers' maintenance of protected amounts – would enable TPS to conduct more efficient monitoring and faster identification and management of potential defaults, and better system-level analysis. However, this data is not collected by ESOS regulators.

Similarly, for VSL, information required by the TPS is generally available through broader administrative arrangements and systems in place for broader VSL. However, some challenges exist in relation to HELP and up-front fee-paying HE students. In relation to up-front fee-paying HE students, student information is not currently collected through existing processes. TPS Operations advises that a recent determination by the Secretary will require providers to manually submit information to the department to support TPS and other administrative activities. TPS Operations has also advised that it is not yet able to access timely, accurate information from TCSI, to enable levy-setting and closure management.

Burden on providers

The TPS draws predominantly on a range of data sources and systems that hold data collected for other purposes, such as broader administration of ESOS and VSL, rather than collecting TPS specific data directly from providers. As such, it does not represent a large additional data collection burden for providers, relative to the volume of data required to operate effectively. TPS's direct requests for information made of all providers are limited to:

- one annual request to international providers to verify straightforward information regarding student numbers and income
- one annual request to private HE providers for information on total number of HELP and up-front students, and amount of income.

The TPS also utilises the annual Provider Information Request for HE providers, made under the TEQSA Act, to collect some information that might not otherwise be collected, in relation to student numbers, courses and course progression.

In addition, where the TPS becomes aware of a provider that is at potential risk of defaulting – for example, through a regulatory action – it issues a Production Notice to the provider requesting information on student contact details; course and completion information; and the provider's intention to teach out, transfer the student, or transition to another provider.

As a result, TPS imposes a relatively small additional data collection burden on most providers. This was broadly reflected in stakeholder engagement conducted as part of the Review: among providers who made a submission, only around a third viewed the data requested by TPS as excessively burdensome. However, some providers did express frustration with having to provide information multiple times and the general level of regulatory reporting.

This broadly aligns with reports from TPS Operations of challenges accessing data from TCSI, noted above. TPS Operations should continue working with internal data systems to improve access and minimise the need for duplicated data requests, even where these are relatively small.

"Regulatory data, including the TEQSA requirements should be streamlined." – Education provider

"The level of reporting is also unnecessary as this data is already submitted to TCSI – why can't TPS extract this data from the TCSI data warehouse to avoid reporting duplication for providers?" – Education provider

"We report to you but similar information to TEQSA in other formats, PRISMS etc. Why can't it be captured in one place?" – Education provider

18. The TPS should continue to work with TCSI and other departmental stakeholders to improve access to required data and reduce reporting burden for providers.

3.2.5 The Review has not identified any PGPA Act compliance concerns

While the Review has not conducted a detailed assessment of TPS's PGPA Act compliance, it has not identified any major compliance risks, issues or concerns.

Governance of the TPS appears to support compliance: the establishment of the TPS Director as an official of the department for the purposes of the finance law, and the role of the department in supporting and conducting TPS activity, means the TPS falls within the department's set of processes and controls for PGPA Act compliance, including risk management, audit, reporting and fraud control; while the Secretary as accountable authority is accountable for the special accounts that form the three TPS funds. As part of broader measures to further strengthen clarity and governance for statutory appointments, the department is in the process of establishing an MoU between the TPS Director and the Secretary as Accountable Authority, setting out roles and responsibilities. In addition, the presence of a Department of Finance representative on the TPS Advisory Board provides a further means of identifying compliance risk, while recognising that the scope of the Advisory Board is formally limited to advising the TPS Director on relevant levy components.

As with many public sector Board arrangements, membership of TPS Advisory Board has the potential to create conflict of interest, particularly where members have roles within the education sector. However, this is substantially mitigated by the role of the board as advisory rather than executive; and the processes the TPS has in place for managing potential conflict.

Stakeholders engaged throughout the Review – including those with detailed knowledge of TPS and the PGPA Act – did not identify any concerns or issues relating to PGPA Act compliance.

3.3 TPS Advisory Board's response to COVID-19

3.3.1 TPS's COVID-19 response proactively managed risks to students and the funds

The TPS expected the COVID-19 pandemic to trigger an increase in the number of education provider defaults, however, this did not occur. Since March 2020, there have been only 11 education provider defaults in the international sector and no defaults in VSL or HE.

To support providers through the pandemic and help ensure the sustainability of the funds, the TPS and the Commonwealth undertook a range of actions. These actions were targeted at minimising the financial impact on providers; preserving the funds in the face of a potential large number of provider defaults; and supporting the sector to ensure students' interests could be best protected.

Minimise the financial impacts on providers

To minimise the financial impact on providers during the pandemic, the Commonwealth:

- Waived levies for the VSL and HE Tuition Funds in 2020 and 2021
- Delayed the payment of the OSTF levy in 2020. The OSTF levy had to be collected as the legislative instrument was finalised before the pandemic in October 2019 and could not be changed.

In lieu of the waived levies, the Commonwealth injected \$2.7M into the VSL Tuition Protection Fund and \$3.6M in the HE Protection Fund to minimise the impact of the fee waiver.

Preserve the funds

To preserve the OSTF Fund, the TPS changed the way it provided refunds for international students who used an education agent. The TPS refunded the portion of unspent tuition fees but did not refund the portion that was paid to the education agent as commission. Instead, the TPS advised international students to ask their education agents to refund them the amount equal to the commission fee. In instances where this did not occur, the TPS refunded the amount to the student.

TPS also temporarily suspended the option for international students to receive a refund.

The TPS also worked to negotiate bulk placements with large providers, to lower TPS's administration costs and reduce the call on the funds.⁴⁷ This initiative was already in train pre-pandemic; however, COVID-19 prioritised and accelerated its implementation.

Understand emerging impacts on the international sector

At the early stages of the pandemic, the TPS conducted an environmental scan to identify education providers who were likely to be most at risk of defaulting during the pandemic. Further, the TPS Director proactively reached out to all education providers at various points during 2020 to offer assistance and support, and encourage providers to engage early with the TPS, should the viability of their business be at risk.

The TPS also worked with ASQA to encourage providers who were severely affected by COVID-19 to place their registration on hold (effectively in hibernation) until their situation improved. Working closely with ASQA meant that the TPS could ensure that they could place students before their education provider went into hibernation.

⁴⁷ The TPS is required to pay the TPS Administrator a fee for each student placement, therefore bulk placements minimise the individual case management fees.

In addition, the TPS Advisory Board invited representatives from the different sectors to provide an update on what was happening within each sector in relation to COVID-19. This was to ensure that the TPS Advisory Board had a sound understanding of the pandemic's implications on the various education providers.

3.3.2 Providers generally viewed TPS's COVID-19 response positively

Providers who made a submission to the Review generally perceived the TPS's response to be appropriate, however, most did not recognise that the decision of the levy waiver in VSL and HE was made by government, not the TPS.

While most providers who submitted feedback to the Review viewed TPS's response positively, there was some variation in satisfaction, particularly amongst international and domestic education providers. Education providers in the VSL and HE spaces found that the TPS's overall response to COVID-19 was suitable. Whereas international education providers were unhappy with the decision of the TPS and Commonwealth to not offer a levy waiver. One provider felt that it was unfair to use a legislative instrument that was developed pre-COVID-19 for the levies, given the situation pre-pandemic was significantly different to the current state and many providers were now struggling financially.

One provider expressed the view that the levy payment period of four weeks should have been extended, as providers were overwhelmed with managing the impacts of COVID-19. Another shared that the levy waiver should be extended until Australia's borders reopen.

Several providers raised the potential issue of 'payment shock' for those who had their levies waived during COVID-19. It was suggested that the TPS needed to consider how it reintroduced levies to minimise the potential for payment shock.

"I feel that TPS played its relevant role during COVID-19...proved the need to have TPS as part of our industry framework." – Education Provider

"Provide more than the standard four weeks for payment. Most providers were overwhelmed with COVID-19 impacts and the strict deadlines were not helpful amidst key student related functions." – Education Provider

"The waiver on the levy should have been extended through the total period of national border closures." – Education Provider

3.3.3 The pandemic's effects on TPS are ongoing

In the international education sector, the pandemic saw providers lose students as Australia's borders closed. This had flow on effects to the current risk factors, specifically: *the volatility in overseas student enrolments*. At present, providers receive a higher risk factor weighting if they experience a high growth or large decline in overseas student enrolments. Therefore, as Australia's international borders open and international students return, these providers will naturally see high growth rates in student enrolments. Therefore, providers will be penalised if this risk factor is not revised.

Given the Commonwealth's decision to waive levies for the VSL and HE sectors, the subsequent years could see providers experiencing 'payment shock', as this will be the first time, they will pay the TPS levy. While most providers operating within the domestic sector currently view the TPS in a positive light, their perceptions may shift after having to pay the levy.

RECOMMENDATIONS

19. The TPS should continue to closely monitor the international environment through analysis and engagement with a wide range of sources including providers, sector peaks, education agents and other government agencies, on a regular basis.
20. The TPS Director and Advisory Board should consider adjusting the risk factor relating to volatility in student enrolments to reflect the expected bounce back in international education.
21. The TPS should conduct targeted, early communications on the potential resumption of the domestic levies, to help manage 'payment shock'.

3.4 Expansion to up-front payment students in the VET sector

The question of whether TPS should be further expanded to a broader cohort of domestic VET students has emerged through several channels:

- In 2018 the Braithwaite Review called for a single tuition protection scheme, arguing that fragmented tuition protection arrangements across the sector, contribute to inequities for various student cohorts.⁴⁸
- The expansion to up-front payment students in the VET sector was originally considered as part of the initial domestic expansion in 2020. However ultimately the cohort was not included, in part due to a lack of data to assess, scope, plan and deliver the service.
- In the lead-up to the 2020 expansions of TPS to VSL/HECS-HELP/FEE-HELP, industry groups argued strongly for the inclusion of wider domestic students, characterising their exclusion as discriminatory. For example, ITECA noted that *"different students in the same educational program, the same class with different circumstances could have vastly differing outcomes in the event the tuition protection mechanism is called to action."*⁴⁹

This section considers the arguments for and against further expansion; and explores the potential feasibility and suitability of such a change.

Scope of the issue

Principle arguments for expanding TPS to the broader domestic VET sector include:

- providing equitable arrangements for all students, given VSL students are covered by TPS
- providing consistent, clearer arrangements for students and providers
- providing additional protection for students who may be at high risk of detriment
- incentivising training participation by reducing perceived risks to students of financial detriment or other harm arising from provider closures or failure to deliver.

⁴⁸ V Braithwaite, All eyes on quality: Review of the National Vocational Education and Training Regulator Act 2011, Commonwealth of Australia, Canberra, 2018.

⁴⁹ See for example Independent Tertiary Education Council Australia (ITECA), Submission to the Senate Standing Committee on Education and Employment Inquiry into Tuition Protection Bills, 2019, <https://www.aph.gov.au/DocumentStore.ashx?id=28b2c7fe-0662-4818-a00f-704008afa69d&subId=673283>

Under current arrangements, a large proportion of domestic VET students have a lower level of fee protection compared to others, by virtue of not falling within the remit of the TPS. Existing fee protection arrangements for domestic VET students not accessing a VSL include:

- Base level consumer protection arrangements afforded under the Australian Consumer Law – although the experience of TPS Operations is that in practice, VET students would stand little chance of recovering prepaid fees in the event of unplanned provider closure.
- Fee protection arrangements prescribed under the RTO standards, including:
 - Government-owned providers and universities being required to have policies in place to re-place students in the event the RTO is unable to provide service paid for, or to provide a refund of any prepaid fees above a threshold amount (currently \$1,500). In practice, specific support available to students varies between states and territories.
 - A requirement for any RTO charging prepaid fees above a threshold amount (currently \$1,500) to either hold a bank guarantee for the total amount of prepaid fees above threshold; be a member of an approved TAS (none of which exist following the closure of previous schemes); or have in place other fee protection measures approved by the regulator.⁵⁰

The likelihood of domestic VET students being affected by provider closure is difficult to quantify. The Review has been unable to obtain data about the rates of provider failure leading to unmet obligations to students. In the absence of this data, one crude method for estimating the numbers affected is to extrapolate closure rates from the international sector – where information exists for the TPS – to the domestic sector. This approach assumes that rates of closure leading to unmet student obligations are the same across international and domestic sectors; and that the number of students affected for each of these closures is also the same. Under these assumptions, in the order of 5,000-15,000 domestic students annually at private RTOs could potentially be affected by their RTO closing, in a way that would afford them some support by the TPS if they were covered by the service. This broad estimate includes fee-for-service and government-funded students.

In many cases, the immediate financial detriment to these students is likely to be limited. Discussions with stakeholders including peak bodies and regulators suggest that most providers charge a relatively small amount of prepaid fees, especially government-funded students. A proportion of these students will also be employer-funded, and therefore not bear the costs individually.

However, notwithstanding potentially limited financial impacts, many of these students are likely to be at a disadvantage relative to their counterparts supported by TPS. Critically, TPS does not just provide financial assurance; but also provides direct, individual, targeted support to affected students in accessing placement at another provider. Support of this nature is not immediately available to other domestic students. As such, they may be more likely to discontinue their training.

Potential scope of expansion

In discussions to date, there is no single shared view of who should be included in any expansion among domestic VET students. The description of 'up-front fee-paying VET students' does not have an established meaning within the sector. For the purposes of exploring potential expansion further, we have defined this group to include *full fee-paying domestic students undertaking nationally recognised VET at a private provider and not accessing a VET Student Loan*. Importantly, this definition does not include several cohorts of students:

⁵⁰ Standards for Registered Training Organisations (RTOs) 2015, Schedule 6, <https://www.legislation.gov.au/Details/F2019C00503>

- **Students at government-owned providers.** Students at these providers are at limited risk of being affected by a provider failing to meet their regulatory obligations.
- **State and territory-subsidised students.** Government-funded students pay substantially lower total fees: recent work conducted by the National Skills Commission found an average subsidy rate of 90% for a basket of common VET qualifications across Australia.⁵¹ As a result, this group is likely at a lower risk of financial detriment.
- **Employer-funded students.** Similarly, students whose fees are paid by their employer – including those undertaking apprenticeships and trainees, and enterprise RTO students – are at limited risk of financial detriment.
- **Students undertaking non-nationally recognised training.** Non-nationally recognised or non-accredited training plays an important role in the broader skills landscape. However, for the purposes of consumer protection measures such as TPS, it is a distinct category of activity with distinct policy, funding and regulatory arrangements.

The question of whether government providers should be included in TPS is complicated and has been extensively debated over the history of the TPS both in international and domestic sectors. Arguments for including government providers include that this avoids an uneven playing field; reduces average levies to providers; and that government providers should participate to reflect that they share in sector-wide reputational benefits of effective tuition assurance. Conversely, including these providers adds to the overall cost of the scheme, while doing little to affect risk or student detriment overall. On balance, the Review suggests there would be little case for including government-owned providers in any further domestic expansion. While the principle of neutrality is significant, other benefits would be limited, particularly the absence of a clear 'whole-sector' reputational benefit. This would also provide consistency with the current domestic TPS arrangements.

Costs and challenges

There are a range of potential costs, complexities and other challenges associated with further expansion.

The total cost of the expansion would depend substantially on the individual risk characteristics of the providers in scope, as determined by the actuarial analysis of the AGA. However, we can identify some high-level order of magnitude estimates of the cost of the expanded program. This approach assumes that both the average provider risk of domestic VET providers in the new expansion cohort, and the average number of enrolments, is the same as that of international VET providers currently. It assumes that around 2,500-3,000 additional providers would be added, comprising private RTOs not currently CRICOS registered.⁵² Under this approach, the total annual levy would be in the order of \$7-15M annually.

Other issues include:

- **Set-up and administrative cost.** Administration of an expanded TPS would incur substantial additional cost, both during set-up and ongoing. Initial investment would be required to design and configure new systems and design new processes. On an ongoing basis, the expanded cohort would require additional monitoring and engagement with stakeholders and at-risk providers. At present, the number of providers within the scope of TPS is around 1,500. While the number of providers in scope is not the only driver of TPS Operations activity, it is a significant one. Adding an additional 2,500 to 3,000 providers would require additional staff resources to manage the new, larger provider and student cohort. For example, to accommodate the initial domestic expansion in 2020-21 – including

⁵¹ National Skills Commission, 'VET average price benchmarks - Findings from the national VET average price benchmark database', Commonwealth of Australia, 2021, <https://www.nationalskillscommission.gov.au/average-price-benchmarking-report>

⁵² Based on data provided by ASQA, number of RTOs excluding government-owned RTOs and RTOs currently delivering VSL.

an additional 200-250 providers – TPS Operations roughly doubled its size, at cost of around \$1M. While some economies of scale could be expected, a comparable or larger order of magnitude of additional costs could be anticipated for the proposed domestic VET expansion.

Notably, under current arrangements, these additional initial investment and ongoing resourcing costs would be borne by government, not covered by levies.

- **Practical challenges.** Administering the TPS effectively requires ease of access to comprehensive, well-maintained data. This broadly exists for international education; and is early in development for VSL, HELP and up-front HE. It does not currently exist for the broader VET sector. Existing data projects underway, such as VET Data Streamlining, have the potential to meet the data needs required to expand TPS; however, this would require lead time, investment and prioritisation of effort. An alternative would be to pursue a less efficient, manual approach, with greater data collection burden on providers and greater resource requirement.

The potentially large volume of providers would require substantially greater coordination between Commonwealth, state and territory regulators, beyond what currently exists.

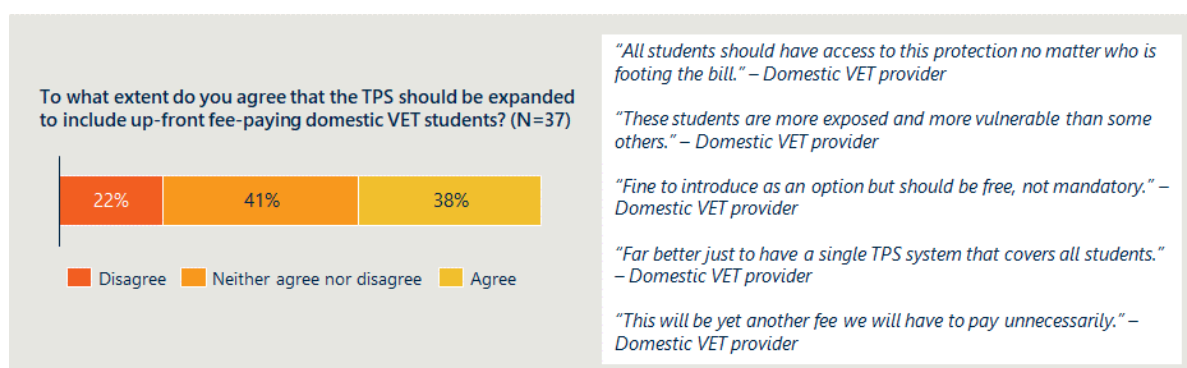
- **System design and cohesion.** At the margin, there is a potential risk that expanding TPS to non-subsidised training could incentivise training activity not deemed suitable for subsidy, and therefore of less public value – potentially undermining the cohesion of the system.
- **Constitutional powers.** The Commonwealth has limited constitutional powers in relation to VET consumer matters. While some states and territories have referred regulatory powers to enable establishment of ASQA, powers in relation to student advocacy and student protection, including consumer protection, were specifically excluded from these arrangements at the request of state and territory governments.

Provider views

Providers' views on this topic are of paramount importance, as any TPS expansion would primarily be funded by additional providers levies. Among providers who made a submission to the Review, views on potential expansion were mixed (Figure 12). Some domestic VET providers who supported the expansion argued that all students should have access to protection regardless of the payment arrangement and noted that up-front fee-paying students are currently exposed. Others offered support on the grounds that it would streamline arrangements for multi-sector providers currently required to put in place multiple tuition protection arrangements (e.g., TPS membership as well as bank guarantees or other measures).

Providers who did not support the expansion suggested that protection could be better strengthened through improvement of the RTO Standards; and objected to the potential additional cost to providers.

Figure 12 | Providers' perspective on the expansion to up-front payment VET students



[Text alternative for Providers' perspective chart](#)

Feasibility and suitability

In the medium term, the TPS Operations and TPS Administrator could deliver the TPS to more students, with appropriate resources for the set-up and ongoing operations. The major barrier to expansion is access to high-quality, up-to-date data, to support calculation of levies and administration of activation events. Currently, this data is not readily accessible for the wider domestic VET sector. With the appropriate lead time, investment and resourcing, further expansion would likely be feasible. If a decision were made to proceed, a first step would be to conduct a detailed review of existing data sources against TPS needs and put in place a plan for development.

However, the Review has strong reservations about the suitability of such a change. In principle, there is clearly value in all domestic VET students having the same protections as VSL students. But it is not clear that the benefits of TPS expansion outweigh the costs or is the best way to provide such protection. There are a range of challenges and difficulties with a substantial further expansion, both from a system design perspective, and a practical perspective. The benefits – particularly in terms of the number of students who might benefit – are relatively small by comparison. As discussed above at 3.1.2, other potential interventions are likely to be more appropriate and proportionate to the identified need, such as providing displaced students with rapid, targeted, information and guidance about appropriate alternative course options; or developing a leaner, stand-alone placement service. These options should also be explored in the context of broader Commonwealth-state VET working relationships, reflecting shared roles and responsibilities within the sector.

On current evidence, the department should not pursue the expansion of the TPS to a new cohort of domestic students but should consider other mechanisms to ensure that eligible students have appropriate access to adequate tuition protection.

RECOMMENDATIONS

- TPS should not be expanded to up-front fee-paying domestic VET students. The department should work with VET regulators and states and territories to explore appropriate alternative tuition protection or support arrangements for this cohort, for example services that provide additional information and guidance to affected students to find another suitable course, at lower cost than the TPS.

Appendix A Glossary

AGA – Australian Government Actuary

ASQA – Australian Skills Quality Authority

The department – Department of Education, Skills and Employment

ESOS Act – *Education Services for Overseas Students Act 2000*

HE – Higher Education

HECS – Higher Education Contribution Scheme

HELP – Higher Education Loan Program

HES Act – *Higher Education Support Act 2003*

OSTF – Overseas Student Tuition Fund

TAS – Tuition Assurance Scheme

TCSI – Tertiary Collection of Student Information

TDA – TAFE Directors Australia

TEQSA Act – *Tertiary Education Quality and Standards Agency Act 2011*

The Review – Tuition Protection Review

TPS – Tuition Protection Service

VET – Vocational Education and Training

VSL – VET Student Loans

VSL Act – *VET Student Loans Act 2016*

VSL Tuition Protection Fund – VET Student Loans Fund

Appendix B List of stakeholders engaged

A number of stakeholders were engaged as part of the Review. Below provides a list of stakeholders, grouped by organisation type.

Tuition Protection Service

The following stakeholders were consulted as part of the Review:

- Tuition Protection Director
- Tuition Protection Fund Advisory Board
- Tuition Protection Administrator (Vincent)
- Tuition Protection Operations Team

Government departments

Representatives from the following government departments were consulted as part of the Review:

- Department of Education, Skills and Employment
- Department of Home Affairs
- Department of Training and Workforce Development (Government of Western Australia)
- Office of Tasmanian Assessment, Standards and Certification

Peak bodies

Representatives from the following peak bodies were consulted as part of the Review:

- Australian Skills Quality Authority (ASQA)
- Council of Australian Postgraduate Associations (CAPA)
- Council of International Student Australia (CISA)
- English Australia
- Independent Higher Education of Australia (IHEA)
- Independent Schools Australia (ISA)
- Independent Tertiary Education Council Australia (ITECA)
- International Education Association of Australia (IEAA)
- National Union of Students (NUS)
- NEAS Australia
- TAFE Directors
- Tertiary Education Quality and Standards Agency (TEQSA)
- Universities Australia

Providers

Education providers were provided the opportunity to submit a submission to the Review Group. The following providers submitted a submission:

- Adelaide Central School of Art Inc
- Alphacrucis College
- Aurora Training Institution Pty Ltd
- Australian College of Nursing
- Australian Institute of Business
- Australian Institute of Higher Education
- Australian Institute of Theological Education
- Australian International College of Language
- Bond University
- Camberwell Girls Grammar School
- Charles Sturt University
- Colleges of Business and Technology (WA) Pty Ltd
- Equitation Science International
- Federation University Australia
- Flight Training Adelaide
- Flinders University
- iCollege Limited
- IH Sydney Training Services
- ISANA - International Education Association
- Leaders Institute
- Le Cordon Bleu Australia
- Masada College
- Montessori World Educational Institute (Australia) Inc
- Niche Education Group Pty Ltd
- Sheridan Institute of Higher Education
- South Metropolitan TAFE
- TAFE International WA
- TAFE NSW
- TAFE SA
- The Institute of Internal Auditors – Australia

- The Tax Institute Higher Education
- Universal Business School Sydney
- UNE Partnerships
- University of Sydney
- UNSW Sydney
- UOW College Australia
- Young Rabbit Pty Ltd
- You Study International College

Students

125 international students who have interacted with the TPS were engaged via a Tuition Protection Review survey.

Appendix C TPS provider online submission form

Thank you for making a provider submission to the Tuition Protection Review. Further information about the Review, including terms of reference, is available [here](#).

This online provider submission form includes both survey-style questions on particular areas of interest to the Review; and unlimited full text response questions for you to provide input on any issue.

Please note, your submission will be **treated confidentially** and the Review will not identify individual respondents or institutions. If you have any questions about the submission form, please feel free to get in touch with the Review team at tuitionprotectionreview@nousgroup.com

Background to the Tuition Protection Service (TPS)

The TPS delivers Australian Government-managed tuition protections and assistance to students in the event their education and training provider is unable to continue delivering their course of study. The TPS operates across the International Education sector; Higher Education sector (private providers operating in the HELP program and delivering up-front payments); and private providers operating in the VET Student Loans (VSL) program.

Table 8 | Provider online submission form⁵³

No.	Question	Possible response
1.	Institution name	Comment box (optional)
2.	States/Territories in which your institution operates	Tick all that apply: <ul style="list-style-type: none">• ACT• NSW• NT• QLD• TAS• SA• VIC• WA
3.	Sector/s you offer courses in	Tick all that apply: <ul style="list-style-type: none">• International education – VET• International education – English language (ELICOS)• International education – Higher education• International education – School• Domestic – Higher education• Domestic – VET Student Loans (VSL)• Domestic – VET (non-VSL)• Other (please write in)

⁵³ Questions that are not marked optional are compulsory.

No.	Question	Possible response
4.	No. of students at your institution (2020 headcount, approximately)	Comment box
5.	How many of your students are covered by TPS? (approximately)	Comment box
6a.	What year did the TPS support your institution in relation to a potential default?	<p>Select one response:</p> <ul style="list-style-type: none"> • 2012 • 2013 • 2014 • 2015 • 2016 • 2017 • 2018 • 2019 • 2020 • 2021 <p>Then proceed to question 6b.</p>
6b.	How did you first engage with the TPS regarding your situation?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • You contacted the TPS directly • TPS contacted you • Other – please specify <p>Then proceed to question 6c.</p>
6c.	How satisfied were you with your experience with the TPS?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Satisfied • Neutral • Dissatisfied <p>Comment box (optional) – please provide commentary to support your response</p> <p>Then proceed to question 6d.</p>
6d.	Is there anything you would like to share about your experience with the TPS?	<p>Comment box (optional)</p> <p>Then proceed to question 6e.</p>
7.	Has the TPS ever placed students with you from another provider that has defaulted?	<p>Select one response:</p> <ul style="list-style-type: none"> • Yes • No • Prefer not to say

No.	Question	Possible response
7a.	How many students from a defaulting provider has the TPS previously placed with your institution, approximately?	Comment box
7b.	Overall, how satisfied were you with the experience of the TPS placing students at your institution?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Satisfied • Neutral • Dissatisfied <p>Comment box (optional) – please provide commentary to support your response</p>
7c.	Is there anything you would like to share about your experience of the TPS placing students with your institution?	Comment box
8.	Overall, based on your interactions with TPS, how satisfied have you been with your experience?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Satisfied • Neutral • Dissatisfied • Have not interacted with the TPS <p>Comment box (optional) – please provide commentary to support your response.</p> <p>Proceed to question 10.</p>
9.	Is anything you would like to share about your experience with the TPS?	<p>Comment box (optional)</p> <p>Then proceed to question 10.</p>
10.	To what extent, do you agree that the TPS provides reliable and sufficient tuition assurance for eligible students.	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Agree • Neither agree nor disagree • Disagree <p>Comment box (optional) – please provide commentary to support your response</p>
11.	Which is your preferred arrangement for tuition protection?	<ul style="list-style-type: none"> • Government owned and run schemes (such as the TPS) • Requirement for providers to obtain private tuition assurance cover • One or more industry owned and run schemes • No additional tuition assurance beyond current provider obligations • Other – please specify <p>Comment box (optional) – please provide commentary to support your response</p>

No.	Question	Possible response
12.	To what extent, do you think that the TPS enhances Australia's reputation among prospective students in international education market.	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Extremely • Very • Moderately • Slightly • Not at all <p>Comment box (optional) – please provide commentary to support your response</p>

The Review is exploring several options for the future of the role of the TPS Director, including:

- No change – the TPS Director role remains a statutory appointment, independent of the Department of Education, Skills and Employment
- Moving the functions of the TPS Director role into the Department of Education, Skills and Employment

Please give your views on each of these:

No.	Question	Possible response
13a.	No change – the TPS Director role remains a statutory appointment, independent of the Department of Education, Skills and Employment.	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Oppose • Neutral • Support <p>Comment box (optional) – please provide commentary to support your response</p>
13b.	Move the functions of the TPS Director role into the Department of Education, Skills and Employment.	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Oppose • Neutral • Support <p>Comment box (optional) – please provide commentary to support your response</p>

The TPS Advisory Board is responsible for providing advice and recommendations to the TPS Director regarding annual settings for the levies. The Board comprises seven non-Government discretionary members and five members who represent government agencies.

The Review is exploring several options for the future of the TPS Advisory Board, including no change; change of composition; reducing the size; and removing altogether.

Please give your views on each of these:

No.	Question	Possible response
14a.	No change to the Advisory board.	<p>Select one response:</p> <ul style="list-style-type: none"> • Support • Neutral • Oppose • Not sure <p>Comment box (optional) – please provide commentary to support your response</p>
14b.	Change of Advisory Board composition.	<p>Select one response:</p> <ul style="list-style-type: none"> • Support • Neutral • Oppose • Not sure <p>Comment box (optional) – please provide commentary to support your response</p>
14c.	Reducing the Advisory Board's size.	<p>Select one response:</p> <ul style="list-style-type: none"> • Support • Neutral • Oppose • Not sure <p>Comment box (optional) – please provide commentary to support your response</p>
14d.	Removing the Advisory Board altogether.	<p>Select one response:</p> <ul style="list-style-type: none"> • Support • Neutral • Oppose • Not sure <p>Comment box (optional) – please provide commentary to support your response</p>
15.	Please share your reflections on TPS's governance and institutional arrangements.	Comment box (optional)
16.	How satisfied are you with TPS's engagement and communication with providers?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Satisfied • Neutral • Dissatisfied <p>Comment box (optional) – please provide commentary to support your response</p>

No.	Question	Possible response
17.	Please share your overall views on TPS's engagement and communication with providers.	Comment box (optional)
18.	How satisfied are you with your level of understanding of how levies are calculated by the TPS?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Dissatisfied • Neutral • Satisfied <p>Comment box (optional) – please provide commentary to support your response</p>
19.	The TPS levies paid by providers are made up of risk rated and non-risk rated components. Which of the following best reflects your view?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Non risk rated components make up too much of the levy • The balance of risk rated and non-risk rated components is about right • Risk rated components make up too much of the levy • Not sure <p>Comment box (optional) – please provide commentary to support your response</p>
20.	To what extent, do you agree that the levy amount you pay is fair relative to the service provided by the TPS, and your institution's level of risk?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Disagree • Neutral • Agree
21.	To what extent do you agree that the data TPS requires from providers is excessively burdensome?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Agree • Neither agree nor disagree • Disagree <p>Comment box (optional) – please provide commentary to support your response</p>
22.	To what extent, do you agree that TPS's response to the COVID-19 pandemic has been appropriate?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Agree • Neither agree nor disagree • Disagree <p>Comment box (optional) – please provide commentary to support your response</p>
23.	Is there anything that the TPS should have done or should do differently in response to COVID-19?	Comment box (optional)

No.	Question	Possible response
24.	To what extent do you agree that the TPS should be expanded to include up-front-fee-paying domestic VET students?	<p>Select the one that best applies:</p> <ul style="list-style-type: none"> • Agree • Neither agree nor disagree • Disagree <p>Comment box (optional) – please provide commentary to support your response</p>
25.	What are the strengths of current tuition protection arrangements?	Comment box (optional)
26.	What are the weaknesses of current tuition protection arrangements?	Comment box (optional)
27.	How could current tuition protection arrangements be improved?	Comment box (optional)
28.	Would you be happy for the Review Team to contact you if we had any further questions we wanted to discuss?	<p>Select one response:</p> <ul style="list-style-type: none"> • Yes • No
29.	Please provide an email address for the Review Team to contact you if needed.	Comment box (optional)

Thank you page

Thank you for your providing feedback on the Tuition Protection Review.

If you have any questions, please feel free to get in touch with the Review team, at tuitionprotectionreview@nousgroup.com

Appendix D TPS international student survey

Thank you for your participation in this survey regarding Australia's Tuition Protection Service (TPS).

This survey is part of the review of Australia's tuition protection arrangements being conducted by Nous Group (Nous). Further information about the review is available [here](#).

The purpose of the survey is to better understand international students' experience of engaging with the TPS. It will ask you questions about your own experience and should take no more than ten minutes to complete. Please note, your responses will be treated confidentially. We will treat all responses in accordance with Nous Group's privacy policy, available [here](#).

If you have any questions, please contact Nous Group at tuitionprotectionreview@nousgroup.com.

Table 9 | TPS international student survey⁵⁴

No.	Question	Possible response	Question rationale
1.	What is your nationality?	Comment box	This question will help us understand how experiences of TPS vary between different nationalities.
2.	In what year did you receive support from the TPS?	Select one response: <ul style="list-style-type: none">• 2012• 2013• 2014• 2015• 2016• 2017• 2018• 2019• 2020• 2021	.
3.	How well could you speak English when you received your support from TPS?	Select one response: <ul style="list-style-type: none">• Very well• Well• Not well• Not at all• Prefer not to say	This question aims to determine how language proficiency impacts the student experience.

⁵⁴ Questions that are not marked optional are compulsory.

No.	Question	Possible response	Question rationale
4.	Which sector was your course in when you received support from the TPS?	Select one response: <ul style="list-style-type: none"> English-language courses (ELICOS) Higher education Vocational education and training School Not sure 	This question aims to determine whether the student experience of engaging with the TPS differs among sectors.
5.	Overall, how satisfied were you with your education experience in Australia?	Select the one that best applies: <ul style="list-style-type: none"> Very satisfied Satisfied Neutral Dissatisfied Very dissatisfied 	This question aims to determine students' overall satisfaction with the international student experience. Including this question allows us to separate students' satisfaction with the TPS and international education.
6.	Had you heard about the TPS before commencing your studies in Australia?	Select one response: <ul style="list-style-type: none"> Yes No If yes, proceed to question 6a. If no, proceed to question 7.	This question aims to assess students' awareness of the TPS before commencing their studies.
6a.	To what extent did the TPS influence your decision to study in Australia?	Select the one that best applies: <ul style="list-style-type: none"> To a great extent Somewhat Very little Not at all 	This question will help determine whether the TPS plays a part in students' decision to study in Australia.
7.	How did you first engage with the TPS?	Select the one that best applies: <ul style="list-style-type: none"> You contacted the TPS directly TPS contacted you Other – please specify 	This question aims to understand how students mostly access the TPS.
8.	Did you use the TPS Online system?	Select one response: <ul style="list-style-type: none"> Yes No 	
8a.	How easy was the TPS Online system to navigate?	Select the one that best applies: <ul style="list-style-type: none"> Very easy Easy Neutral Difficult Very difficult 	This question will provide insights into the student experience of engaging with TPS, specifically the TPS system.

No.	Question	Possible response	Question rationale
9.	Did your education agent deal with the TPS on your behalf?	Comment box (optional) – please use the comment box to provide any further information if required	
10.	Did you receive a refund from the TPS or were you placed at another institution?	Select the one that best applies: <ul style="list-style-type: none"> • Refunded • Placed at another institution • Other (Write in) 	This question will help determine whether the outcome a student receives impacts their overall experience with the TPS.
11.	How satisfied were you with the time it took TPS to refund you or place you at another institution?	Select the one that best applies: <ul style="list-style-type: none"> • Very satisfied • Satisfied • Neutral • Dissatisfied • Very dissatisfied 	This question will show how satisfied students were with the time it took TPS to resolve the student's case.
12.	How satisfied were you with your outcome?	Select the one that best applies: <ul style="list-style-type: none"> • Very satisfied • Satisfied • Neutral • Dissatisfied • Very dissatisfied 	This question will show how satisfied students were with the outcome they received. It will also determine the extent to which satisfaction differs based on outcome.
13.	How satisfied were you with the TPS's communication?	Select the one that best applies: <ul style="list-style-type: none"> • Very satisfied • Satisfied • Neutral • Dissatisfied • Very dissatisfied 	This question will show how satisfied students were with the communications they received. It will also determine the extent to which satisfaction differs based on outcome.
14.	How satisfied were you with the TPS overall?	Select the one that best applies: <ul style="list-style-type: none"> • Very satisfied • Satisfied • Neutral • Dissatisfied • Very dissatisfied 	This question will show how satisfied students were with the outcome they received. It will also determine the extent to which satisfaction differs based on outcome.
15.	What did the TPS do well?	Comment box (optional)	This question provides an opportunity for students to provide specific feedback.
16.	What did the TPS not do so well?	Comment box (optional)	This question provides an opportunity for students to provide specific feedback.

No.	Question	Possible response	Question rationale
17.	How could the TPS be improved?	Comment box (optional)	This question provides an opportunity for students to provide improvement suggestions.

Thank you page

Thank you for your participation.

If you have any questions about the Review, please feel free to get in touch with Nous, at Jamie.tang@nousgroup.com.au

Appendix E Long alternative text

TPS structure

An image shows an organisational structure diagram illustrating the structure of the Tuition Protection Service.

The TPS Director and the Department of Education, Skills, and Employment are accountable to the Minister for Education.

The TPS Administrator is accountable to the TPS Director; and the TPS Advisory Board advises the TPS Director.

The TPS Operations branch reports to the TPS Director, while sitting within the Department of Education, Skills and Employment.

[Return to TPS Structure](#)

TPS 2021 annual levy amounts, by sector

An image shows a stacked column chart with four columns.

The four columns represent the four TPS sectors: international; VSL; HELP; and HE upfront providers. The columns show the 2021 levy amounts calculated for each sector.

Each column is broken down into four segments: Special tuition protection component; risk rated premium component; base fee component; and administrative fee component.

For the international sector, the special tuition protection component is zero; the risk-rated premium component is 1.9 million dollars; the base fee component is 0.6; and the administrative fee component is 0.3. The total number of providers is 1,252.

For the VSL sector, the special tuition protection component is 0.2 million dollars; the risk-rated premium component is 1.0; and the administrative fee component is 0.1. The total number of providers is 164.

For the HELP sector, the special tuition protection component is 0.9 million dollars; the risk-rated premium component is 1.7; and the administrative fee component is 0.1. The total number of providers is 90.

For the HE up-front sector, the special tuition protection component is 0.1 million dollars; the risk-rated premium component is 0.4; and the administrative fee component is 0.3. The total number of providers is 134.

[Return to Annual levies](#)

Overview of TPS legislative framework

A diagram shows the four pieces of primary legislation that make up the TPS legislative framework; and then the corresponding levy-related legislation; rules and guidelines; and key instruments, for each of the Acts.

The four pieces of primary legislation are:

The ESOS Act, Part 5

The VSL Act, Parts 5A and 5B

HES Act, Parts 5-1A and 5-1B

TEQSA Act, Part 5A

For the ESOS Act, the corresponding levy-related legislation is the ESOS TPS Levies Act 2012. There are no relevant rules and guidelines. There are three key instruments. They are: the ESOS Calculation of Refund Specification 2014; the ESOS TPS Levies Administrative and Base Fees Determination 2020; and the ESOS TPS Levies Risk Rated Premium and Special Tuition Protection Components Instrument 2020.

For the VSL Act, the corresponding levy-related legislation is the VSL Tuition Protection Levy Act 2020. The relevant rules are the VSL Rules 2016. There are two key instruments. They are: the VET Student Loans VSL Tuition Protection Levy Administrative Fee Determination 2020; and the VET Student Loans VSL Tuition Protection Levy Risk Rated Premium and Special Tuition Protection Components Determination 2020.

For the HES Act, the corresponding levy-related legislation is the Higher Education Support HELP Tuition Protection Levy Act VSL Tuition Protection Levy Act 2020. The relevant guidelines are the higher education provider guidelines 2012. There are two key instruments. They are: the Higher Education Support (HELP Tuition Protection Levy) (Administrative Fee) Determination 2020; and the Higher Education Support (HELP Tuition Protection Levy) (Risk Rated Premium and Special Tuition Protection Components) Determination 2020.

For the TEQSA Act, the corresponding levy-related legislation is the Higher Education (Up-front Payments Tuition Protection Levy) Act 2020.

The relevant guidelines are the Tuition Protection (Up-front Payments) Guidelines) 2020. There are no key instruments.

[Return to overview of the TPS legislative framework](#)

TPS total funding by source and year

An image shows a column chart with seven columns. Each column represents one year, from 2014-15, through to 2020-21.

Each column has two segments: the first segment is TPS revenue including levies; and the second segment is administrative support provided by Department employees.

In most years, the total funding ranges from about 7 million to 12 million, with a substantial decline in 2019-20, where total funding is less than 2 million. Department support makes up a small proportion of the total funding.

In 2014-15, TPS revenue is 8.6 million and Departmental support is 0.5 million

In 2015-16, TPS revenue is 10.1 million and Departmental support is 0.7 million

In 2016-17, TPS revenue is 8.6 million and Departmental support is 0.5 million

In 2017-18, TPS revenue is 9.8 million and Departmental support is 0.8 million

In 2018-19, TPS revenue is 7.1 million and Departmental support is 0.5 million

In 2019-20, TPS revenue is 0.7 million and Departmental support is 1.0 million

In 2020-21, TPS revenue is 10.7 million and Departmental support is 1.5 million

[Return to Total funding](#)

International student feedback on TPS's operations

An image shows three stacked bar charts, each with one bar.

The heading for the first chart reads: How did you first engage with the TPS? (N equals 115)

The bar is broken into three segments. You contacted the TPS directly is 30 per cent; TPS contacted you is 58 per cent; and other please specify is 12 per cent.

Two examples of survey comments are provided. The first reads: "If it wasn't for TPS contacting me, I would have not known that my school had no license to keep charging and teaching." The second reads: "My agency that organised my course said I should have received correspondence from TPS as the college I applied for had liquidated. However, I heard nothing from TPS...it took several calls and emails to even get a response."

The heading for the second chart reads: How satisfied were you with the TPS' communication? (N equals 112)

The bar is broken into five segments. Very dissatisfied is 8 per cent; dissatisfied is 5 per cent; neutral is 20 per cent; satisfied is 41 per cent; and very satisfied is 26 per cent.

Three examples of survey comments are provided. The first reads: "They [TPS] spoke very clearly and explained the situation well. The refund process was smooth." The second reads: "Overall, the services they provided were really good. One thing that I still remember is that I had to wait a very long time when I called them by phone. Also, the response through email was also slow." The third reads: "TPS need improve the timeliness of their communications and provide a better explanation of how refunds are calculated..."

The heading for the third chart reads: How did you first engage with the TPS? (N equals 115)

The bar is broken into five segments. Very dissatisfied is 10 per cent; dissatisfied is 10 per cent; neutral is 16 per cent; satisfied is 37 per cent; and very satisfied is 28 per cent.

Two examples of survey comments are provided. The first reads: "The waiting time to receive my refund could have been shorter." The second reads: "[TPS] did not place me in another institution. And what I invested in the school - I did not get back the right amount."

[Return to International Student Feedback](#)

Relationship between volume of requests and time to respond' chart

An image shows two charts: a line chart, and a scatter plot.

The heading of the line chart is: Number of refund submissions – by month submitted.

The y axis is labelled number of submissions, with the scale going from 0 to 600. The x axis is labelled month, with the scale going from 2012 to 2021. Each tick mark represents one month.

The line shows a volatile number of submissions per month. From 2012 to 2016, it is relatively flat, well below 100 submissions per month. There are several spikes between 2016 and 2021, of approximately 250 submissions per month; 200 submissions per month; 500 submissions per month; 200 submissions per month; and 150 submissions per month.

The heading of the scatter plot is Number of refund submissions vs days to complete – by month submitted.

The y axis is labelled refund submissions. The x axis is labelled average days to complete.

There are roughly 100 points in the scatter plot. There is no clear relationship between the number of refunds submitted each month, and the average days to complete for refunds in each month.

[Return to TPS' performance](#)

Text alternative for Provider feedback chart

An image shows two stacked bar charts, each with one bar.

The heading for the first chart reads: Overall, based on your interactions with TPS, how satisfied have you been with your experience? (N equals 39)

The bar is broken into four segments. NA is 23 per cent; Dissatisfied is 5 per cent; neutral is 41 per cent; and satisfied is 31 per cent.

One example of a survey comment is provided. It reads: "I have always found my experience [with TPS] to be professional and supportive."

The heading for the second chart reads: How satisfied are you with TPS' engagement and communication with providers? (N equals 37)

The bar is broken into three segments. Dissatisfied is 11 per cent; neutral is 43 per cent; and satisfied is 46 per cent.

Five examples of survey comments are provided. The first reads: "Current engagement is sufficient, however, more forums to provide feedback on gaps would be advisable." The second reads: "Sector engagement has always been strong and a focal point of the TPS. They hold annual information sessions and send out very clear and informative emails regularly to keep providers abreast of upcoming milestones." The third reads: "There is little communication with schools." The fourth reads: "Wider and more regular communication from TPS around the scheme and training for providers might be beneficial." The fifth reads: "Communication and the provision of information was as expected."

[Return to Provider Feedback](#)

TPS Operations structure

An image shows an organisation chart of the TPS Operations branch, with box representing each team member. There are 15 boxes in total. The TPS Director is at the top of the chart. The TPS Director has two direct reports: the Manager Administration and Operations, 1.0 EL2; and the General Manager and Finance (1.0 FTE).

The Manager Administration and Operations has two direct reports: a 1.0FTE EL1, who in turn has 1.0 APS6 and 1.0 APS4 reporting; and a second 1.0FTE EL1, who in turn has 1.0 APS6 and 1.0 APS5 reporting.

The General Manager Finance also has two direct reports: a 1.0 EL1 who in turn has a 1.0 contractor (APS4 equivalent); and a second 1.0 EL1 who in turn has two 1.0 APS sixes reporting

[Return to TPS Operations](#)

TPS Operations resourcing

An image shows a stacked column graph. The vertical axis goes from 0 to 12 representing number of FTE. The horizontal axis shows the year, from 2012-13 to 2021-22. Each column represents one year.

A call-out box in 2020-21 states: From 1 July 2020, the TPS Operations team was expanded to include the new domestic responsibilities of the TPS.

Each column is broken into five segments: EL2; EL1; APS6; APS5; and APS4.

The total number of FTE starts at 6.0 in 2012-13; then falls to 4.5 in 2018-19; before steadily rising to 11.7 in 2021-22.

There are no APS5 staff until 2014-15; and no APS4 staff until 2016-17. The mix of FTE at each level stays broadly consistent in each year.

[Return to Operations resourcing](#)

APS agencies proportion of senior staff

An image shows two column charts side by side.

The first chart is labelled per cent EL1, EL2, APS6. The y-axis is labelled from 0 per cent to 10 per cent in 10 percent increments.

There are a large number of columns, ordered left to right from smallest to largest. Each column represents an APS agency. The smallest is around 10 per cent, the largest is 100 per cent. The column representing TPS Operations is one of the largest columns, at around 80 per cent.

The second chart is labelled per cent EL1, EL2. The y-axis is labelled from 0 per cent to 10 per cent in 10 percent increments.

There are a large number of columns, ordered left to right from smallest to largest. Each column represents an APS agency. The smallest is around 5 per cent, the largest is around 90 per cent. The column representing TPS Operations is one of the larger columns, at around 50 per cent.

[Return to Proportion of senior staff](#)

Providers' perspective on the expansion to up-front payment VET students

An image shows a stacked bar chart, with one bar.

The heading for the chart reads: To what extent do you agree that the TPS should be expanded to include up-front fee-paying domestic VET students? N equals 36.

The bar is broken into three segments. Disagree is 22 per cent; Neither agree nor disagree is 41 per cent; and Agree is 38 per cent.

Five examples of survey comments are provided.

The first comment reads: "All students should have access to this protection no matter who is footing the bill." – Domestic VET provider

The second comment reads: "These students are more exposed and more vulnerable than some others." – Domestic VET provider

The third comment reads: "Fine to introduce as an option but should be free, not mandatory," – Domestic VET provider

The fourth comment reads: "Far better just to have a single TPS system that covers all students." – Domestic VET provider

The fifth comment reads: "This will be yet another fee we will have to pay unnecessarily." – Domestic VET provider

[Return to Providers' view](#)



ABOUT NOUS

Nous Group is an international management consultancy with over 500 people working across Australia, New Zealand, the United Kingdom, Ireland and Canada. With our broad consulting capability, we can solve your most complex strategic challenges and partner with you through transformational change.

A dark blue world map graphic with white dots representing cities, primarily concentrated in Australia, New Zealand, and the UK.

bold
performance & influence
engaging

Australia | New Zealand | UK | Ireland | Canada

500

PEOPLE

60

PRINCIPALS

5

COUNTRIES

+82.4

2021 NET PROMOTER SCORE
– global consulting average: +70.1