



Australian Government

# Tuition Protection Service

Ms Julia Agostino  
Secretary  
Senate Education and Employment Standing Committee

By Email: [eec.sen@aph.gov.au](mailto:eec.sen@aph.gov.au)

Dear Ms Agostino,

**Inquiry into the Education Services for Overseas Students Amendment (Streamlining Regulation) Bill 2015 and the Education Services for Overseas Students (Registration Charges) Amendment (Streamlining Regulation) Bill 2015.**

Thank you for your letter of 21 October to the Tuition Protection Service (TPS) inviting a submission to the above inquiry and the opportunity to provide input.

## Introduction

The TPS was established on 1 July 2012 to assist international students on a student visa to find a new course if their provider closes unexpectedly or, as a last resort, to pay them a refund of their unspent tuition fees.

The TPS provides world class student protection by ensuring international students' investment in their education is secure. It enhances Australia's reputation as a destination of choice for international students.

The TPS is funded by industry through an annual TPS levy which is paid by all providers of education to international students into the Overseas Students Tuition Fund (OSTF). The student placement and refund costs are paid out of the OSTF.

## General Comments

The TPS is pleased to see the ESOS legislative framework being streamlined and made more contemporary to support the continued growth of the international education sector – which continues to be such an important export industry for

Australia. The TPS is highly supportive of the provisions of the Bills which reduce regulatory burden on education providers.

A number of changes to the *Education Services for Overseas Students Act 2000* (ESOS Act) are included in the Education Services for Overseas Students Amendment (Streamlining Regulation) Bill 2015 (Streamlining Bill) that relate directly to the TPS and I will limit my comments to these.

### **Requirement on providers to report student defaults**

We are pleased to see the proposed removal of section 47C of the ESOS Act which required providers to report the occurrence of all student defaults within five days. The modification of section 47H to further reduce reporting requirements is also welcomed. The TPS is of the view that the compliance costs of the current requirements far outweigh the potential benefits.

### **Limits to prepaid fees and Designated Account keeping requirements**

Limits to collection of pre-paid fees and the requirement to keep the pre-paid fees in a separate 'designated account' are the two key integrity measures introduced in 2012 to support and maintain the sustainability of the TPS and the OSTF. Furthermore, these measures have also helped mitigate the risk of excessive burden on providers of the TPS levies amount.

An earlier iteration of the ESOS reform proposals (*Reform of the ESOS Framework: Discussion Paper*) included proposals to:

- a) remove the requirement to limit the collection of pre-paid fees to no more than 50 per cent of course fees up front; and
- b) remove the requirement that pre-paid tuition fees must be held in a designated account.

This proposal was of concern to the TPS because together, the removal of these requirements was considered likely to increase the potential financial exposure and thus impact on the overall sustainability of the OSTF in the event of a provider closure.

The TPS is pleased that the proposed provisions in the Streamlining Bill retain the limit on the collection of pre-paid fees (albeit modified appropriately to allow students and third parties to pay more than 50 percent only if they request to do so).

With limits on the collection of pre-paid fees retained, the removal of the requirement to hold fees in a designated account reduces the risk to the OSTF measurably, nevertheless, it remains an area of potential risk for the TPS. Whilst the TPS would prefer the retention of this integrity measure, it is also persuaded by the many views of the stakeholders who advocated for its removal.

The TPS notes that in the absence of the requirements to maintain designated accounts, the Bill provides for regulators to impose conditions at any time during a provider's registration which may include conditions that would place stronger requirements on the use of pre-paid tuition fees by a provider considered by the regulators to be an integrity risk. The TPS is of the view that these provisions could perhaps be further clarified by a specific reference to conditions on collection and use of prepaid fees in explanatory material or other appropriate elements of the ESOS legislative framework.

### **Other TPS Related Measures**

The Bill proposes to expand the powers of the TPS Director to include:

- the power to recommend that an ESOS Agency take enforcement action against a provider (that the ESOS Agency must consider); and
- the authority to issue a production notice that requires an education provider to submit certain information to assist with monitoring the provider's compliance with the TPS requirements.

These powers would be very welcome as they would make it easier for the TPS to monitor providers at risk of not meeting their obligations to students and to work more closely with the regulators in taking action against providers of concern which have come to the notice of the TPS.

## Summary

The TPS is supportive of the Bill in its current form and will continue to monitor the international education risk environment including the effects of any legislative change.

Thank you again for this opportunity.

Yours sincerely

Vipan Mahajan  
TPS Director  
29 October 2015