

English Australia Submission

TPS Post-Implementation Review (PIR)



Sent to: The Department of Education
via email Lydia.Ward@education.gov.au

Section 1) Background

On **4 September 2014** English Australia was contacted by the Department of Education and invited to provide input to a Post-Implementation Review (PIR) of some of the legislative changes that resulted from the 2012 amendments to the Education Services for Overseas Students Act 2000 (ESOS Act).

The PIR is required by the Office of Best Practice Regulation and focuses largely on the **operation, effectiveness and regulatory impact of the Tuition Protection Service (TPS)**. It also encompasses another change implemented in 2012 relating to **national registration** on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).

English Australia notes that:

- the PIR is a separate process to the consultations recently held by the Department of Education on reforming the ESOS framework; and
- the PIR seeks input on three specific measures and only from education peak bodies at this stage.

A consultation paper was provided by the Department of Education giving an overview of the main issues and specific questions for each. These focus on the elements that must be addressed in the PIR.

English Australia also notes that:

- while the PIR is limited in scope, any feedback provided through this process will also be considered in the broader reform of ESOS; and
- the discussion paper on possible improvements to ESOS overall is being finalised and is expected to be released publicly in the near future.

Section 2) English Australia comments

English Australia welcomes the opportunity to provide input to this review, noting however, the **limited focus** as specified by the Office of Best Practice Regulation (OBPR) on the following:

- a. the establishment and operation of a universal Tuition Protection Service (TPS) for international students in Australia on student visas;
- b. the requirement to only refund the portion of the course not delivered or assessed;
- c. national registration of education institutions.

English Australia's primary concerns regarding the *Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Act 2012* (which was passed in March 2012) **relate to other aspects of the changes made (ie not covered by this PIR)**. Whilst not covered by this specific review, English Australia was pleased to note that the Department will be focusing on these issues via other consultations currently taking place on a broader reform of the Education Services for Overseas Students (ESOS) framework:

- limit of 50 per cent on fees paid for a course before its commencement;
- requirement for a designated account in which to hold 'prepaid' fees;
- reporting requirements for education institutions and student defaults.

English Australia provides comments as follows in response to the specific questions raised in the TPS PIR consultation paper.

A. Operation of the Tuition Protection Service

- 1. In your experience and that of your members, is the TPS effectively meeting its goals to provide placements or refunds to students affected by education institution closures?**

From the information that has been provided to the industry by the Department of Education and the TPS Director, it seems that whilst the majority of students have opted for refunds rather than placements, they have subsequently used these refunds to enrol with another provider rather than returning to their country. This is reassuring to the industry.

It is also pleasing that the TPS has handled defaults/closures in a timely and sensitive manner, with the result that there has been no negative media.

As education providers are contributing all of the funds to the TPS, English Australia would urge that a more proactive approach is taken to providing them with information regarding how their financial contribution is being used and the outcomes of the placement/refund process.

- 2. In meeting the requirements associated with the TPS, what have been the major impacts for your members in terms of both benefits and costs? Please explain your answer, including indicating the impacts, if any, of the requirement for the TPS levy.**

This question does not specify which 'requirements' of the TPS are the focus of this review. Many of the requirements associated with the TPS have had an extremely negative impact on providers (eg. limits on pre-paid fees), however it seems that this question is intended to relate more to the actual creation and operation of the TPS itself rather than other aspects of the TPS legislation.

As an alternative to the previous model, the TPS is a significant improvement. Operationally, it seems to be managing the default process in a much more timely and effective manner than occurred under the previous arrangements.

English Australia also views the inclusive nature of the TPS very positively as under the previous regime the burden was not shared equally across all sectors of international education. Whilst it is acknowledged that publicly funded institutions such as universities and TAFEs are highly unlikely to require the services of the TPS, it is also true to say that the majority of private providers would also never make a claim on the Fund. If the intent is to ensure that the financial burden of protecting Australia's reputation is spread equitable across all providers, then this model achieves this goal.

There are significant benefits to 'brand Australia' from the assurance that Australia can offer to students and their families. This gives a degree of competitive advantage in some countries and to some sectors in particular. It is worth noting that for the ELICOS sector, however, 40% of students are not covered by the TPS so English Australia has to offer an alternative approach to consumer protection for these students (on tourist and working holiday visas).

From data provided by the TPS Director, it appears that the financial costs to private sector English Australia member colleges are lower than under the previous consumer protection arrangements.

Regardless of the fact that costs are lower than previously, ELICOS providers continue to view them as high, particularly for private colleges who pay the extra risk levy. The current risk model for determining fees does not offer any 'reward' for providers that have shown previous commercial 'robustness', having been open for decades in the face of varying market conditions.

Our final concern with regards to cost is the fact that the TPS was introduced 'to provide a more sustainable and responsive framework **that could be fully funded by international education institutions**'.

Australia as a nation benefits from international education. It is the government (via the regulators) that determines which providers are registered on CRICOS and can enrol international students. Education providers have no control over the monitoring of other providers who may default on their compliance responsibilities under the ESOS and TPS legislation. It seems unfair therefore that those education providers alone should bear the full financial burden. English Australia would suggest that it would be more appropriate for the government to match the industry contribution.

3. What do you see as the main advantages of a universal tuition protection mechanism?

A universal mechanism ensures consistency in the assurance Australia can provide students and maximises the options in cases of default.

B. Requirement to only refund the portion of the course not delivered

4. Education institutions are now required to refund only the portion of the course not delivered or assessed—that is, the unspent tuition fees. Does this change result in a fairer outcome for education institutions and students?

Yes, the previous model was inappropriate, particularly for ELICOS.

5. Please list any impacts on your organisation resulting from the introduction of this change, including in relation to calculating refunds to students.

There are no negative impacts from this change.

C. Enable national registration of education institutions

6. **Has national registration resulted in a cost saving in registration and associated administrative charges for your members? Please provide comments to support your response.**

The number of providers to whom this applies is relatively small. In general the financial and administrative burden for some has been reduced by the introduction of national registration.

There have, however, been some negative impacts on the accuracy of data collection relating to student commencements/enrolments. There is also a negative impact on the opportunity for providers setting up new centres in different locations to be able to access the Export Market Development Grant (EMDG) as they are ineligible under the current guidelines.

7. **Are there any improvements you would suggest to the current system of national registration? Please fully explain your suggestions.**

English Australia would recommend changes to ensure that student data can be collected by location of provider. We would also recommend a review of the EMDG eligibility requirements.

Section 3) Next steps

English Australia notes that:

- The information and feedback received from stakeholders in response to this consultation paper will be included in a report on the findings of the TPS PIR.
- The final report will be submitted to the OBPR by the end of 2014 and will be published on the OBPR's website.
- The outcomes of the final report of the TPS PIR will also be considered as part of the broader ESOS reforms taking place over 2014-15. Ongoing communication with stakeholders on the progress of the ESOS review and proposed changes will continue during that period.

ENGLISH AUSTRALIA CONTACT

Sue Blundell
Executive Director

(02) 9264 4700 | 0402 232 503
sueblundell@englishaustralia.com.au

PO Box 1437, Darlinghurst NSW 1300
Level 3, 162 Goulburn Street, Surry Hills NSW 2010