

Tuition Protection Service Review

Navitas submission
12 December 2021

Navitas' response to the Tuition Protection Service Review

Background to the Tuition Protection Service (TPS)

The TPS delivers Australia 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 Loan (VSL) program.

The TPS was extended to domestic students studying with providers in the independent higher education and vocational education sectors in 2020.

About Navitas

Navitas Pty Ltd is made up of multiple different colleges and higher education providers covered by the TPS program. We have ten CRICOS registered providers that deliver higher education programs to Australian domestic and international students. This includes our university partnerships divisions where we provide pathway programs to students in preparation for their studies with our university partners – including for both international and domestic students. Navitas also has two standalone higher education businesses – SAE Institute and Australian College of Applied Psychologists (ACAP) – which primarily cater to domestic Australian students. ACAP also delivers a small number of VET programs. We also have Navitas English that provides general and academic English programs.

Navitas strongly supports the consumer protection elements of the Education Services for Overseas Students Act 2000 (ESOS Act), including the TPS. We believe that government and industry have worked effectively over successive iterations of the ESOS Act to establish and embed good practice in the international education sector. Navitas also believes that inclusion of domestic students in the program was an important change to the program which supports efforts to achieve universal tuition protection for students studying in Australian higher and vocational education sectors.

Provider details

1. Institution name	Navitas
2. State / territories your institution operates in	Australian Capital Territory New South Wales Queensland South Australia Victoria Western Australia
3. Sectors in which your institution offers courses	International Education – English language (ELICOS) International Education – Higher Education International Education – School Domestic – Higher Education Domestic – VET Non-award – Foundation studies programs
4. Number of students at your institution (2020 headcount, approx.)	SAE – 3,700 ACAP – 5,900 UPA – 8,500
5. Has your institution been supported by TPS regarding a potential default?	No

Experience with the TPS

7. Overall, based on your interactions with the TPS, how satisfied have you been with your experience?

Navitas has been **satisfied** with our interactions with the TPS.

We support the TPS as a best practice tuition protection scheme and believe that the associated financial impost is reasonable for a low-risk provider like Navitas. From our perspective the TPS plays a critical role in providing assurance to international students and domestic higher education and VET students studying with independent providers on their investment in their education. It is a key component of Australia's education system and supports its overall reputation.

Navitas has not engaged with the TPS in relation to a potential default for any of our businesses, but has engaged with the TPS in relation to:

- Levy payment contributions (in relation to Higher Education levy and Overseas Student Tuition Fund (OSTF), and
- With regards to being an alternate provider for students following their provider defaulting.

8. Is there anything else you would like to share about your experiences with the TPS?

Navitas' experience with the TPS have been positive, professional and appropriate.

TPS Purpose and Objectives

9. To what extent do you agree that the TPS overall provides reliable and sufficient tuitions assurance for eligible students?

Navitas **agrees** that **the TPS does provide reliable and sufficient tuition assurance** for eligible students.

Australia has a long and successful record of providing consumer protections for international students through the TPS and the Overseas Student Transition Fund (OSTF). The extension of this program to many cohorts of domestic students studying with the independent sector means that a greater number of students have reliable assurance for their tuition fees.

There are some specific areas where coverage could be further improved – specifically in relation to VET students that pay their fees upfront (discussed in question response 24) and coverage levels for students where there is a closure before they have completed their unit or semester (discussed in question response 27).

10. Which is your preferred arrangement for tuition protection?

Navitas supports the current TPS model – **a government scheme with required membership**.

The existing approach works well as it ensures that there is a consistent “last resort” or “safety net” in place for all students in instances where there is a provider closure, and a student is not able to complete their studies.

Navitas also acknowledges that the independent nature of the TPS and that it is not operated by industry is an important component of the current system that works effectively and provides assurance to students.

For this reason, Navitas prefers a government scheme with required membership as opposed to **one or more industry schemes with required membership**.

Similarly, Navitas' view is that a scheme with required membership is critical for the program to operate effectively and that it **would not be appropriate** for tuition protection to only occur **through relying on provider obligations** alone to provide refunds or placements – for example as occurs through a self-assurance model.

While Navitas does support a government scheme with required membership, we also believe that additional consideration should be given to how a providers risk level can be accurately assessed. There are three things we believe can be improved within the scheme:

- Consideration in risk levels for large institutions that can financially cross-guarantee their individual providers
- Adoption of a model with a stronger focus on identifying risk levels of individual providers defaulting, and
- Assessment of the appropriateness of existing risk metrics.

These areas are discussed in our response to question 19.

11. To what extent do you think the TPS enhances Australia's reputation among prospective students in the international education market?

Navitas believes that the **significantly** enhances Australia's reputation among prospective students looking to study overseas. Importantly, the program provides assurances to prospective students that may be applying to study in Australia, but more importantly the program provides protections for the reputation of the Australian international education system. The negative impact on 'Brand Australia' is widespread when there is a failure of an international education provider – as shown following provider closures that occurred in 2009. In instances of poorly managed closures, this has negative effects on the whole of the Australian international education sector. Through the TPS, Australia's reputation is enhanced to some extent for students that are currently applying, but more importantly negative reputational damage to Australian international education, and all Australian international education providers, is proactively managed and this risk is mitigated.

TPS Governance and Institutional Arrangements

As per the overview provided by the Review, the TPS Director is responsible for facilitating the delivery of the tuition protection assistance (arranging student placements, refunds and loan credits) in the event of a provider default, managing the TPS funds, and collecting provider levies.

The TSP Advisory Board is responsible for providing advice and recommendations to the TPS Director regarding annual settings for the levies. The Board comprises 7 non-Government discretionary members and 5 members who represent government agencies.

Navitas understands that the Review is exploring several options for the role of the TPS Director, including:

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

Navitas' position on these proposed approaches is as follows:

13a. No change - the TPS Director remains a statutory appointment, independent of the Department of Education, Skills and Employment

Navitas **supports** the existing arrangements with the TPS managed by an Independent Director separate from the Department of Education, Skills and Employment. From our perspective this existing arrangement is working well, the independence of the function is important and there is not a clear rationale for a change to a different model.

13b. Move the functions of the TPS Director role into the Department of Education, Skills and Employment.

Navitas is **does not support** moving the TPS Director role into the department.

Navitas has previously suggested that if a change to the current statutory arrangements are made, consideration could be given to the TPS function being absorbed into a combined unit operated by AQSA and TEQSA (which would reduce duplication around risk rating assessment). However, this is not our preferred model.

Navitas also understand that the Review is exploring several options for the future of the TPS Advisory Board, including:

- No change
- Changing the composition of the Board
- Reducing the size of the Board
- Removing the Board altogether

Navitas' position on these proposed approaches is as follows:

14a. No change to the Advisory Board

Navitas **supports** the current Advisory Board arrangements and composition.

The Board is currently made up of seven non-government discretionary members and five members who represent government agencies. Navitas' view is that this approach is appropriate and believe that the Advisory Board plays an important role in ensuring industry and cross-government input into decision making and providing guidance to tuition protection. One recommendation that Navitas would make is for consideration to be given to appointing a board member that represents the independent tertiary sector, noting the focus of the TPS program.

While we do not see a need to change the composition of the Advisory Board, we do believe its role could be used more effectively. The current role of the Advisory Board is to provide 'advice and recommendations to the TPS Director regarding annual settings for levies'. Navitas' view is that the Advisory Board could play a more fulsome role in the strategic leadership of the TPS. This would include:

- The ability to direct the TPS Director with respect to the legislative instrument and levy settings, as opposed to only providing 'advice'
- Consideration of the current environment and long-term strategic changes in the industry in setting the legislative instrument
- Consideration of the sustainability of the OSTF and other levy funds as part of their advice.

A mechanism could be created that would allow the TPS Director to not act on the advice.

Finally, the Advisory Board does not have any mechanism to speak to industry or provide advocacy for particular recommendations that are made to the TPS Director. This appears to be a lost opportunity on behalf of the TPS to demonstrate strong industry consultation and liaison.

14b. Change the composition of the Advisory Board

Navitas supports the current composition of the Advisory Board. In particular, we support the representatives of the Australian Government Actuary and the Australian Prudential Regulation Authority's inclusions on the Advisory Board, to provide a non-education consideration of risk.

14c. Remove the Advisory Board altogether

Navitas **strongly opposes** the removal of the Advisory Board altogether. We do not believe this would be in the interest of the program and believe it would result in decision-making that is not aligned to the needs and the context of the international education and independent higher education sectors.

15. Please share your overall views on TPS' governance and institutional arrangements.

Navitas believes that the TPS is a well-run organisation that effectively manages provider closures. While small amendments could be made to governance and institutional arrangements, the organisation does support good decision-making and service delivery.

The only further area that could be considered interaction between the TPS and the education regulators – TEQSA, ASQA, ESOS team and the Department of Home Affairs. It is not clear the extent to which there is coordination and alignment in the processes and approaches that are adopted by TPS. For example, it appears that TPS' assessment of provider risk level, including approaches to assess financial risk, does not align fully with TEQSA and ASQA. Navitas' view is that greater coordination and alignment would support better decision making, reduce duplication and make arrangements and processes easier for education providers to understand. We do not believe that this needs to be addressed through structural or governance changes, but rather consideration could be given to vehicles or mechanism to support closer coordination and collaboration between these agencies.

TPS' Engagement with Providers

16. How satisfied are you with TPS' engagement and communications with providers?

Navitas is **satisfied** with TPS' engagement and communication with providers.

From our understanding TPS operates workshops and webinars to inform providers of changes to the TPS program and relevant levies.

17. Please share your overall views on TPS's engagement and communication with providers.

Navitas would prefer some flexibility were offered by TPS in relation to reporting periods for the program. Currently a provider is required to report to the program on a calendar year basis. It would be preferred some flexibility is offered in relation to this to allow providers to report on financial metrics either by calendar year or by financial year. As our businesses (as with many independent education businesses) typically operate on a financial year basis, it is a very time consuming process to produce the data required based on a calendar year.

TPS Levies

18. How satisfied are you with your level of understanding of how levies are calculated by the TPS?

Navitas is **somewhat satisfied** with our levels of understanding of how levies are calculated by the TPS.

Whilst Navitas understands the different components of the levies for international CRICOS providers and the higher education levy program – these are not especially accessible to providers. For example, it does not appear that the specific details on the risk factors are shared publicly and can only be determined through review of the legislative instrument itself. Further to this the relative scale of the different components of the levy is not readily apparent.

Information available on the TPS website – including reasons or rationale for levy settings – is not particularly accessible but on close review is present. Clearer communication around decision making would assist providers to understand the rationale for changes and levy settings and the broader rationale for these. This could take the form of an online tool or resources for providers to understand risk factors and increase the transparency associated with this.

Clearer guidance (such as through an interactive tool) would support providers understanding, in particular with consideration of:

- Relative composition of risk related and no risk related components in the overall composition of an individual TPS levy
- The impact of particular risk factors (as part of the broader risk related component) on the overall provider TPS levy contribution amount
- How changes in the risk factors (i.e. provider reduction of risk level) will change the provider contribution amount.

This increased understanding from providers would also support policy makers to influence behaviour of providers in line with broader policy objectives.

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?

Navitas has a number of comments on the TPS levies paid by providers and the risk rated and non-risk rated components of these. Overall, we believe the program is currently working effectively. We are also comfortable with our current level of financial contribution to the program. However, at the same time we believe that the current settings are not optimal to support the intent of the program. Below we outline some overarching comments, outlines some further considerations in how risk is assessed and provides specific reflections on the individual levies we contribute to.

Navitas makes four overarching comments on the composition of the TPS levies:

1. The current risk-rated and no-risk-rated component are currently appropriate.
2. However, the current risk related components do not (or at least may not) accurately represent risk of closure.
3. Alternative mechanisms should be considered to accurately assess provider closure risk, with levy fees set accordingly
4. There is inconsistency across levies and some specific measures do not seem appropriate.

Each is discussed in turn.

The current risk-rated and no-risk-rated components are currently appropriate

Our understanding of the current levy approach is that the **risk rated component** makes up a significantly larger share of the total provider contribution than no-risk related components. For example, for an international education provider with 5,000 students and annual fees of \$20,000 we assess that even for those providers with the lowest risk rate premium component, over 80% of the overall fee would be related to the risk rated component under the OSTF Levy. This increases significantly for providers assessed at higher risk rate premium component values (around 95% in some instances). For a provider of this size, that could equate to 0.05% of revenue for a very low risk provider, or almost eight times that (0.4%) for a very high-risk provider.

Navitas therefore believes that the balance between **risk-rated and non-risk rated components is currently appropriate**. With the intent of the program representing an insurance scheme whereby risks of individual providers account for the contribution, it appears the design and current settings broadly align with this intent.

Any changes towards an increased proportion of no-risk rated components in the levy amount would in effect represent a cross-subsidisation of high-risk providers by low-risk providers than would be the case under market arrangements. Navitas would not support a move in this direction. An approach based to a greater extent on the risks of individual providers would therefore be preferred.

However, the current risk related components do not (or at least may not) accurately represent risk of closure

Navitas notes that a model based on assessment of individual provider risks as is desired requires an accurate assessment of risk levels for individual providers. This should focus exclusively on the risk of closure for individual providers which the levies are established to address. It is not currently clear the extent to which the existing risk factors accurately forecast the risk levels of a provider closing. It is also not clear the existing 'increase factors' for the identified risk factors are evidence based – for example, is their a basis for concentration of the major source country between 25-50 per cent resulting in a 0.3 increase factor, whereas over 50 per cent being 0.7 increase factor.

Assessment of risk factors. Navitas recommends that an analysis is undertaken of historical closures of providers to assess whether there is a clear and significant relationship between the risk factors set for the respective levies and closures that have occurred. This process would be important to validate existing measures, ensure their ongoing efficacy, and identify the most appropriate 'lead indicators' in determining future closures. Specifically, the analysis should:

- Determine significance and predictive power of existing risk factors on 'provider closure'
- Identify if alternate risk factors would be more effective in determining provider risk levels
- Result in the removal of risk factors that do not have a sound evidentiary basis for being included
- Determine if the current 'increase factors' are appropriate based on identified risk level.

This analysis should be published to ensure sector understanding and should directly inform the risk factors included for each respective levy.

Further comments on the five risk factors for the OSTF levy (International) and the three for the HELP Tuition Protection Levy (Higher Education) are outlined in detail further below.

Adoption of approaches used by credit ratings agencies. Existing risk factors are also predominately 'education' risk factors. As the focus of assessing risk is identifying the risk of closure (which could be due to educational or broader factors), the TPS may look to other domains to consider which factors should be considered in determining provider risk levels. It may be more appropriate to consider risk from a prudential risk perspective, with measures replicating approaches adopted by ratings agencies in determining credit ratings scores.

Alternate mechanisms should be considered to accurately assess provider closure risk, with levy fees set accordingly

If an approach that more accurately determines provider risk is considered and implemented alternate mechanisms may also be considered in determining risk levels, and therefore levy payment amounts, for individual providers. In particular, Navitas has previously advocated for:

- **Consideration of large multi-provider organisations cross-guaranteeing individual providers.** As a large organisation operating several education providers, all Navitas entities currently 'cross-guarantee' one another. However, currently TPS assessed only the individual education providers and not the broader supporting institutional and ownership arrangements. This does not provide an accurate assessment of risk levels. Alternate financial guarantee mechanisms of this nature should be taken into account to reduce the risk profile of an individual CRICOS, Higher Education or VET providers that is part of a larger entity.
- **Reduction in pre-paid funds held based on low risk level ratings.** Navitas also believes that the impact of the TPS on low-risk providers could be reduced by considering the risk ratings in relation to the level of pre-paid funds that are held in designated accounts. Alternate financial instruments could also be considered to supplement this difference for low-risk providers – such as through a bank guarantee or alternate agreed financial instruments.

There is inconsistency across levies and some specific measures do not seem appropriate

Finally, Navitas has reflections on the specific risk factors for the two levies that Navitas contributes most significantly to – the OSTF levy (International) and the HELP Tuition Protection Levy (Higher Education).

Inconsistency across assessment of risk for CRICOS and Higher Education providers. Current higher businesses are assessed on 'sound financial position' as part of the risk rated component for the HELP Tuition Protection Levy. Firstly, it is not clear why this same factor is not included in assessment for CRICOS providers is not included in the OSTF Levy process, with no explicit focus on financial risk as part of that process. Secondly, the process to assess financial risk (although not publicly available) does not replicate the assessment process used by the education regulators – TEQSA and ASQA. This could provide an opportunity to remove duplication by aligning this assessment approach, thereby offering simplicity and transparency to providers.

Specific operationalisation of 'student concentration' measure (OSTF levy). Currently source country risk is included in the risk factors for the OSTF levy. Navitas however believes that the approach used to assess this could be improved. Currently there are two elements of the design – the focus on only the

largest single source country and the four concentration thresholds. This method may not accurately assess risk from a region – for example the risk level would be low (0.3 factor) even if a student recruited 45 per cent of students from India and another 45 per cent from Nepal, typically considered to be higher risk recruitment countries. An alternate approach that may be considered is the use of an approach informed by the Herfindahl-Hirschman Index – a typical measure of market concentration that would better account for the nature of concentration and the risk associated with it.

Considerations around ‘volatility in overseas students enrolments’ measure (OSTF levy). The ‘volatility in overseas student enrolments’ places a weighted risk factor based on large increases in international student numbers for established providers. There will be a need to reconsider this measure in line with Australian borders reopening and the impacts on student numbers for most providers due to COVID-19. Most providers that effectively recover over the next 12-24 months, would likely be assessed as ‘volatile’ based on the current parameters. Navitas recommends this is removed in the short term until recovery levels are clearly established.

Specific use of ‘student completion rate’ measure (HELP levy). Navitas does not believe that completion rates should be included in the risk factors used for domestic higher education providers. There does not appear to be a relationship between this student outcome measure and the risk of provider closure, and therefore the validity of the measure is not clear. We also note that completion rates has been de-prioritised by TEQSA in its assessment of risks to students, with the decision made for completion indicators to not be included in the TEQSA Risk Assessment Framework in response to sector feedback.¹

20. To what extent do you believe that the levy amount you pay is fair relative to the service provided by the TPS and your institution’s level of risk?

Navitas **agrees** that the amount its higher education providers pay is fair relative to the service received by TPS and these institution’s levels of risk.

We do however note that further consideration may be given to relative contributions based on principles of risk in line with an approach more akin to an insurance scheme (as per the suggestions made above).

We also note that public (Table A) universities are currently exempt from paying the risk related component of the TPS levy. If this is based on a consideration of risk level, it should also be considered if other providers’ payment levels should be amended based on assessed risk level.

TPS Data Requirements

21. To what extent do you agree that the data TPS requires from providers is excessively burdensome?

Navitas **neither agrees nor disagrees** that the level of data collected by TPS from providers is excessively burdensome. As per the response to question 17, some flexibility on reporting periods would significantly reduce the reporting burden for our different businesses.

¹ Risk Assessment Framework | Tertiary Education Quality and Standards Agency (teqsa.gov.au)

TPS Response to COVID-19

22. To what extent do you agree that the TPS' response to the COVID-19 pandemic has been appropriate?

Navitas **strongly agrees** that the TPS' approach to the COVID-19 pandemic has been appropriate. In particular, Navitas commends:

- The overall substantial reduction in the OSTF TPS levy for 2021 due to the impact of COVID-19 on providers
- The temporary reduction of the specified risk percentage rate to 0.04% (from 0.07% previously) for the OSTF levy
- The recommendation from the Advisory Board that the 2021 settings should be retained for the OSTF levy, and
- Making COVID-19 risk related adjustments for the HELP Tuition Protection Levy for 2021.

Navitas notes that the impacts of COVID-19 are ongoing on the sector, with levels not expected to reach pre-COVID numbers for international students for an extended period even once borders are re-opened. TPS will need to continue to take account of this on any settings in relation to the TPS levy. Navitas has worked with Independent Higher Education Australia (IHEA) to undertake an Independent Education Sector Resilience and Risk Survey which was completed by over 100 Independent Higher Education providers. This has identified the long-term impacts on the sector, including that even if borders were to re-open immediately, it would take providers at least 18 months to return to pre-pandemic levels of students.

23. Is there anything that the TPS should have done differently in response to COVID-19?

Navitas does not believe there is anything else TPS should have done differently in response to COVID-19.

Expansion of the TPS to upfront-fee-paying VET students

24. To what extent do you agree that the TPS should be expanded to include upfront-fee-paying domestic VET students?

Navitas **strongly agrees** that the TPS should be expanded to cover upfront-fee-paying VET students.

Navitas strongly supports universal access to tuition protection as a key principle. Ensuring access to students that pay upfront for domestic VET programs supports this. This builds on the previous decision to expand access to TPS for domestic students accessing VET Student Loan (VSL), HECS-HELP loan and FEE-HELP with a private education provider in January 2020; as well as the subsequent inclusion of upfront fee paying private higher education students in January 2021.

Finally, this is also important for providers operating across many different sector and student segments to ensure protections are consistent to all of their students.

TPS Strengths and Improvement Opportunities

25. What are the strengths of the current tuition protection arrangements?

The key strength of the TPS is that it provides reliable insurance against provider closures. This gives certainty and assurance to international students and students studying with the independent education sector. It does so through a mechanism that ensures contribution from across the sector and does not place too great a financial burden on individual education providers.

26. What are the weaknesses of the current tuition protection arrangements?

There appears to be some uncertainty and inconsistency around the role of the TPS in supporting students following provider closures. In particular, whilst the program is intended to replicate / represent an insurance function, and should therefore only intervene in instances where a provider is not able to meet their responsibilities and obligations, it appears that this is not entirely understood within the sector. For example, to some in the sector there is a view there is a right to use the mechanism, as opposed to seeing it as a 'provider of last resort'. The role of the TPS could be further clarified to better support a consistent and accurate understanding.

As outlined above, Navitas has put forward several areas to further improve the current scheme – including through reconsideration of the risk versus non-risk components of the levy mechanism.

27. How could the tuition protection arrangements be improved?

Navitas has identified one area for improvement in the TPS program. Currently under the ESOS Act repayment of unspent tuition fees is calculated on a pro-rata basis. This means that if a provider closure occurs during the middle of a semester or with several weeks of a unit remaining, students are not refunded the entire unit amount, but are rather refunded for the number of weeks remaining in the unit when the closure occurred.

From our perspective, this is not a fair arrangement for the student as the benefits of undertaking the unit have not been able to be realised. We propose the full unit costs should be refunded to the students in these instances.