

## TUITION PROTECTION PLAN

<b>Approving Authority</b>	Council	<b>Approval Date of Last Revision</b>	30 May 2019
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<b>Policy Category</b>	Operational		
<b>Governing Authority</b>			
<b>Responsible Officer</b>	General Manager		
<b>Related Documents</b>	Course Assurance Policy Enrolment Terms and Conditions Fees and Refunds Procedure Student Grievances, Complaints and Appeals and Policy (and related Procedure) Higher Education Standards Framework (Threshold Standards) 2015 (TEQSA Act 2011) Education Services for Overseas Students Act 2000 (ESOS Act) National Code of Practice for Providers of Education and Training to Overseas Students 2018 Higher Education Provider Guidelines 2012 Higher Education Support Act 2003		

\* Unless otherwise indicated, this Plan will still apply beyond the review date.

### Document Control

Version #	Date	Key changes
1.0	23/02/2018	Original plan approved by Council
2.0	13/11/2018	Significant revision to meet HESF Threshold Standards
2.1	30/05/2019	Minor revision and update to reflect Australian Government arrangements; format updated

## 1. PURPOSE

- 1.1 The purpose of the Tuition Protection Plan is to establish the measures to ensure that the Adelaide Institute of Higher Education (AIHE) assures tuition protection for its students.
- 1.2 The Plan assures that in the event AIHE ceases to provide a course in which a student is enrolled the student is entitled to a choice of:
  - an offer of a place in a similar course with a Second Provider without any requirement to pay the Second Provider any student contribution or tuition fee for any replacement subject; or
  - a refund of his or her up-front payments for any subject that the student commences but does not complete because AIHE ceases to provide the course of which the subject forms part.

## 2. SCOPE

- 2.1 The Tuition Protection Plan applies to all AIHE courses and all students.

## 3. CONTEXT

- 3.1 AIHE is required by the HES Framework to have plans and safeguards in place to protect the interests of students if AIHE is forced to stop operating, experiences financial difficulties, or is unable to effectively deliver higher education.
- 3.2 AIHE must meet the *tuition assurance requirements* as set out in the *Higher Education Provider Guidelines 2012* in compliance with the *Higher Education Support Act 2003*.
- 3.3 The *tuition assurance requirements* have four parts:
  - General Requirements
  - Course Assurance Requirements;
  - Student Contribution or Tuition Fee Repayment Requirements; and
  - Administrative and Other Requirements.
- 3.4 AIHE is required to participate in the Tuition Protection Service (TPS) to meet the *tuition assurance requirements*.

## 4. TUITION PROTECTION SERVICE

- 4.1 The Australian Government is expanding the TPS and new tuition assurance arrangements start on 1 January 2020 (subject to passage of the legislation). The TPS arrangements will continue as a dedicated service for international students. The TPS is being expanded to provide tuition assurance for (domestic) students at non-university higher education providers (NUHEPs) offering FEE-HELP.
  - 4.1.1 The following provisions will apply to domestic FEE-HELP students in the event that AIHE becomes a NUHEP/FEE-HELP Provider, which is subject to further consideration and approval by Council.
- 4.2 If AIHE is forced to close its operations, the TPS will assist AIHE's international and domestic FEE-HELP students to either complete their studies with another provider or have their unspent tuition fees refunded.
- 4.3 TPS arrangements do not extend to AIHE's domestic full fee-paying students.
- 4.4 If AIHE ceases to deliver a course and remains solvent, the financial obligation for supporting students lies with AIHE. AIHE will work with the Director to ensure students

are supported to move to a suitable replacement provider. If there is no suitable replacement provider, AIHE is liable to repay the Commonwealth for any loans amounts re-credited.

- 4.5 AIHE's provision of tuition assurance to domestic students though the TPS is subject to AIHE's application and approval as a NUHEP/ FEE-HELP Provider for domestic FEE-HELP students.

## 5. POLICY STATEMENT

- 5.1 AIHE will meet all default obligations under the relevant legislative frameworks and acts including the:

- *Higher Education Standards Framework (Threshold Standards) 2015* (TEQSA Act 2011)
- *Education Services for Overseas Students (ESOS) Act 2000*
- *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code 2018)
- *Higher Education Provider Guidelines 2012*
- *Higher Education Support Act 2003*.

- 5.2 AIHE will:

- contribute annually to the TPS including any required levies and surcharge
- provide tuition assurance for international students through the TPS
- provide tuition assurance for FEE-HELP students through the TPS (subject to Clause 4.5)
- provide tuition safeguards to domestic full fee-paying students by providing one of the following measures:
  - a 'tuition fees in arrears' agreement is offered by the First Provider (AIHE) to students under which students enrol on the basis that student contributions or tuition fees for each unit of their course are paid in arrears; or
  - a legally binding guarantee provided by a legal entity ("Repayment Guarantor") that is a body corporate incorporated under or in accordance with a law of the Commonwealth or of any Australian State or Territory (not necessarily a higher education provider) which has the necessary financial and administrative resources to fulfil such a guarantee.
- have the opportunity to place students who are referred to the TPS in a suitable alternative course
- enter an agreement with another higher education provider to enrol students in a similar course leading to the same or a comparable qualification
- have a statutory obligation to report to the TPS Director and the Secretary about provider and student defaults
- satisfy provider obligations when a provider defaults as outlined in the ESOS Act (refer Section 6 Provider Default below for steps and responsibilities)
- satisfy provider obligations when a student defaults as outlined in the ESOS Act (refer Section 7 Student Default for steps and responsibilities)
- ensure that the placement and refund processes for students are quick and streamlined and students are looked after following a default in a timely way.

## 6. PROVIDER DEFAULT – INTERNATIONAL STUDENTS (Part 5, Division 1, Subdivision A of the ESOS Act)

### Step 1 - Provider default occurs

Under section 46A of the ESOS Act a registered provider defaults, in relation to an overseas student<sup>1</sup> or intending overseas student and a course at a location, if:

- the provider fails to start providing the course to the student at the location on the agreed starting day; or
- after the course starts but before it is completed, it ceases to be provided to the student at the location; and the student has not withdrawn from the course before the default day.

**Note:** Section 46A sets out further rules prescribing when a provider defaults.

### **Step 2 - Notifying the Secretary, the TPS Director and students**

Under section 46B of the ESOS Act, AIHE must notify the Secretary and the TPS Director of the default within 3 business days of the default occurring. Under section 46B AIHE must also notify students in relation to whom we have defaulted.

The notices must be in writing and meet the requirements of section 46B.

### **Step 3 - Provider obligation period**

Under section 46D of the ESOS Act, AIHE has 14 days after the day of the default (the provider obligation period) to satisfy our tuition protection obligations to the student as set out in the section.

If AIHE fail to discharge our obligations to the student under section 46D, it is an offence under section 46E of the ESOS Act and serious penalties apply.

### **Step 4 - Notification of the outcome- discharge of obligations**

Under section 46F of the ESOS Act, AIHE has 7 days after the end of our obligation period to give a notice to the Secretary and the TPS Director of the outcome of the discharge of our obligations. This notice must comply with the requirements of section 46F.

If AIHE do not meet our obligations affected students may be assisted by the TPS Director.

## **7. STUDENT DEFAULT – INTERNATIONAL STUDENTS (Part 5, Division 2, Subdivision B of the ESOS Act)**

7.1 Under section 47B of the ESOS Act, a registered provider must enter into a written agreement with each overseas student or intending overseas student that:

- sets out the refund requirements that apply if the student defaults; and
- meets any requirements set out in the national code.

Failure to enter into an agreement that complies with section 47B is an offence under section 47F of the ESOS Act and serious penalties apply.

### **Step 1 - Student default occurs**

Under section 47A of the ESOS Act, an overseas student or intending overseas student defaults, in relation to a course at a location, if:

- the course starts at the location on the agreed starting day, but the student does not start the course on that day (and has not previously withdrawn); or
- the student withdraws from the course at the location (either before or after the agreed starting day); or
- the registered provider of the course refuses to provide, or continue providing, the course to the student at the location because of one or more of the following:

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<sup>1</sup> Overseas student is an international student.

- the student failed to pay an amount payable to the provider for the course;
- the student breached a condition of his/her student visa;
- misbehaviour by the student (**Note:** the student is entitled to natural justice under subsection 47A(3)).

**Note:** subsection 47A(2) - A student does not default for failing to start a course on the agreed starting day if he/she does not start that course because the provider defaults in relation to the course at the location under subparagraph 46A(1)(a)(i).

### **Step 2 - Notifying the Secretary and the TPS Director**

To meet Tuition Protection Service (TPS) reporting obligations, providers only need to report on whether they have provided a refund to a student in two cases of student default:

- where a student's visa is refused, even if there is a compliant written agreement in place
- where there is no compliant written agreement in place.

### **Step 3 - Provider obligation period**

If a student or intending student defaults AIHE must provide a refund in accordance with the requirements under either section 47D or 47E of the ESOS Act, depending on which section applies to the circumstances of the default situation.

AIHE must pay the refund within the period (the provider obligation period) of 4 weeks after the day specified in section 47D or 47E, depending on which section applies to the circumstances of the default situation.

### **Step 4 - Notification of the outcome - discharge of obligations**

If AIHE fail to discharge our obligations under sections 47D or 47E, it is an offence under section 47G of the ESOS Act and serious penalties apply.

Under section 47H of the ESOS Act, AIHE has 7 days after the end of our obligation period to give a notice to the Secretary and the TPS Director of the outcome of the discharge of our obligations where the provider is required to provide a refund under 47E. (i.e. where there is no written agreement in place and also in cases of visa refusal, whether there is a written agreement in place or not). This notice must comply with the requirements of section 47H.

## **8. RESPONSIBILITIES**

### **8.1 Council**

- Council is responsible for approving the Tuition Protection Plan and monitoring its implementation.

### **8.2 General Manager (GM)**

- The GM is responsible for ensuring that AIHE implements the measures as detailed in the Tuition Protection Plan.