

# Tuition Protection Service Director’s Privacy Policy

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# 1. The Tuition Protection Service Director's Privacy Policy

## **The Tuition Protection Service Director**

The Tuition Protection Service (TPS) Director is a Commonwealth statutory officer appointed under the *Education Services for Overseas Students Act 2000*.<sup>1</sup> The TPS Director is responsible for managing the tuition protection service and ensuring its sustainability. The TPS Director is supported by staff of the Department of Education, Skills and Employment (the department) and consultants, who assist in the performance of the TPS Director's statutory functions. Reference to the TPS Director in this policy includes reference to any staff and consultants handling personal information for the purposes of assisting the TPS Director.

## **Role of the TPS Director and the TPS**

The TPS is an initiative of the Australian Government to assist and support students whose education providers fail to start or are unable to complete the delivery of their course of study. The role of the TPS Director includes facilitating and monitoring assistance and support to:

- international students on student visas;
- domestic Vocational Education and Training (VET) students accessing a VET Student Loan (VSL);
- domestic higher education up-front fee-paying students and students accessing FEE-HELP or HECS-HELP assistance (HELP).

The TPS Director ensures these students continue to either:

- complete their studies in an equivalent or similar course with another education provider; or
- receive a refund of their unspent tuition fees (international) or refund of tuition fees paid for uncompleted units (higher education up-front fee-paying students); or
- a re-credit of their loan for uncompleted units (VSL and HELP).

More information is available on the [Tuition Protection Service website](#).

## **Purpose of this privacy policy**

The TPS Director's privacy policy:

- describes the types of personal information that we collect, store, use and disclose;
- outlines our personal information handling practices;
- explains our authority to collect your personal information, why it may be held by us, how it is used and how it is protected;
- notifies whether we are likely to disclose personal information to overseas recipients and, if possible, to whom;
- provides information on how you can access your personal information, correct it if necessary and complain if you believe it has been wrongly collected or inappropriately handled.

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<sup>1</sup> The TPS Director also holds the office of the Higher Education Tuition Protection Director and VSL Tuition Protection Director for the purposes of the *Higher Education Support Act 2003*, *Tertiary Education Quality and Standards Agency Act 2011* and *VET Student Loans Act 2016*.

## 1.1. Privacy Act 1988

The TPS Director is required to comply with the [Privacy Act 1988](#) (Cth) (the Privacy Act), this includes compliance with the Australian Privacy Principles (APPs). The TPS Director is an APP entity for the purposes of the Privacy Act. As an APP entity, the TPS Director must have a clearly expressed and up-to-date privacy policy about the management of personal information.

The APPs are contained in Schedule 1 of the Privacy Act. The APPs regulate how federal public sector agencies and certain private sector organisations can collect, hold, use and disclose personal information and how you can access and correct that information.

The APPs only apply to information about living individuals, not information about corporate entities such as businesses, firms, or trusts. Detailed information and guidance about the APPs can be found on the [Office of the Australian Information Commissioner](#) website.

## 1.2. Who should read this privacy policy?

You should read this privacy policy if you are:

- a student;
- a parent or guardian of a student under 18;
- a registered training organisation;
- an approved course provider approved under the *VET Student Loans Act 2016* (VSL Act);
- a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act);
- a higher education provider approved under the *Higher Education Support Act 2003* (HESA);
- an Australian education provider registered to provide courses to people studying in Australia on a student visa under the *Education Services for Overseas Students Act 2000* (ESOS Act);
- an employee of an education provider;
- a contractor, consultant, or supplier of goods or services to the TPS Director;
- an applicant for a tenderer for a contract provided by the TPS Director;
- a policy stakeholder who works with the TPS Director;
- a person whose information may be given to the TPS Director by a third party, including other Australian Government agencies;
- any other individual whose personal information we may collect, hold, use and disclose from time to time.

## 1.3. Information covered by this privacy policy

This privacy policy has been developed in accordance with Australian Privacy Principle 1 and embodies the TPS Director's commitment to protecting the personal information we collect, hold, use and disclose.

This privacy policy is not intended to cover our handling of commercially sensitive information or other information that is not defined in the Privacy Act as personal information.

**‘Personal information’** means any information (or an opinion) about an identified individual or an individual who is reasonably identifiable, whether true or not and whether recorded in a material form or not.<sup>2</sup>

**‘Sensitive information’** is a subset of personal information and includes information about your health, genetics, biometrics, or disability; racial or ethnic origin; religious, political, or philosophical beliefs; professional association or trade union memberships, sexuality; or criminal record. Additional requirements apply to the collection and handling of sensitive information.

## 2. Our Personal Information Handling Practices

### 2.1. Collection of personal information

Personal information may be collected from providers about students for the purposes of administering tuition protection under the ESOS Act, VSL Act, HESA and the TEQSA Act. It may be collected directly from you, or on your behalf from a representative you have authorised.

We may also obtain personal information collected by other Australian Government Departments or agencies, state, or territory governments, other third parties, or from publicly available sources. This will only occur when you consent or in circumstances where it is unreasonable or impractical to collect the information directly from you. It will also occur when we are required or authorised to do so by law.

We are authorised to collect personal information (which may include sensitive information) under a range of Acts, including but not limited to:

- *Education Services for Overseas Students Act 2000*;
- *Higher Education Support Act 2003*;
- *VET Student Loans Act 2016*;
- *Tertiary Education Quality and Standards Act 2011*.

We will only collect information for a lawful purpose that is reasonably necessary or directly related to one or more of our functions and activities, or where otherwise required or authorised by law.

When we collect personal information, we are required under the APPs to notify you of a number of matters. These include the purposes for which we collect the information, whether the collection is required or authorised by law, and any person or body to whom we usually disclose the information, including if those persons or bodies are located overseas. We usually provide this notification by including a link in our correspondence and our online portals to a privacy statement available on our website.

### 2.2. Types of personal information collected by us

We collect and hold a broad range of personal information in records relating to:

- employment and personnel matters for our staff and contractors (including security assessments);
- performance of our legislative and administrative functions including under the ESOS Act, VSL Act, HESA and TEQSA Act;

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<sup>2</sup> See section 6 of the *Privacy Act 1988* (Cth) and the APP Guidelines issued by the Office of the Australian Information Commissioner.

- the TPS Advisory Board and the TPS Advisory Board members;
- management of contracts and funding agreements;
- management of fraud and compliance investigations;
- correspondence from members of the public to us, or correspondence otherwise referred to us by departments or Ministers;
- complaints (including privacy complaints) made and feedback provided to us;
- requests made to us under the *Freedom of Information Act 1982* (Cth) (FOI Act) or the Privacy Act;
- the provision of legal advice by internal and external lawyers.

This personal information may include but is not limited to:

- your name, address, and contact details (e.g. phone, email);
- photographs, video recordings and audio recordings of you;
- information about your personal circumstances (e.g. occupation, family and work/travel commitments and health conditions);
- information about your financial affairs (e.g. payment details, bank account details and information about business and financial interests);
- information about your identity (e.g. date of birth, country of birth, passport details, visa details);
- information about your employment (e.g. work history, referee comments, remuneration);
- information about your background (e.g. educational qualifications, the languages you speak and your English proficiency);
- government identifiers (e.g. CHESSN or Unique Student Identifier);
- student enrolment and study information including study progression and payment details;
- information about provision of courses by education providers;
- contact information for education providers including staff personal information;
- circumstances of education providers failing to start or ceasing to deliver courses;
- information about assistance provided to you under our funding arrangements; and
- information about entitlements under Australian Government legislation.

### 2.3. Collection of sensitive information

In carrying out our functions and activities we may collect personal information that is *sensitive information* (see section 1.3 of this privacy policy). The APPs impose additional obligations on us when collecting, using, or disclosing sensitive information. We may only collect sensitive information from you:

- when you provide your consent and the information is reasonably necessary for or directly related to one or more of our functions or activities; or
- when required or authorised by law; or
- where a permitted general situation exists such as to prevent a serious threat to safety.<sup>3</sup>

We also collect sensitive information where authorised to do so, for the purposes of human resource management, detection and investigation of fraud or other misconduct. This also includes situations

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<sup>3</sup> Permitted general situations are set out in Section 16A of the Privacy Act.

(<https://www.legislation.gov.au/Series/C2020C00237>)

Also, see APP Guidelines – Chapter C for further information on the range of ‘permitted general situations’.

when taking appropriate action against suspected unlawful activity or serious misconduct, and responding to inquiries by courts, tribunals, and other external review bodies.

## 2.4. Collecting personal information from children and young people

In carrying out our functions and activities we may collect personal information about children and young people, either directly from them, through their parents or guardians, or from their education providers or agents. Our general policy is to collect information directly from persons over the age of 18, as they are likely to have the capacity to understand any privacy notices provided to them and to give informed consent to the collection. Where capacity to provide consent is at issue, our policy is to notify and seek the consent of a parent or guardian.

## 2.5. Collection of unsolicited information

Sometimes personal information is not sought by us but is delivered or sent to us by either the individual or a third party without us having requested it. This information is considered 'unsolicited'.

When unsolicited information is received by us, we will, within a reasonable period, determine whether that information is directly related to one or more of our functions or activities. If this cannot be determined, we may, as soon as practicable and in accordance with the [Archives Act 1983](#) (Archives Act) and the Privacy Act, destroy or de-identify the information. If this can be determined, we will notify you of the purpose of collection and our intended uses and disclosures according to the requirements of the APPs unless it is impracticable or unreasonable for us to do so.

## 2.6. How we collect personal information

We collect your personal information through a variety of channels, which may include notices, online portals and websites, electronic or paper correspondence and from data sharing, matching or linkage arrangements with Australian Government and state and territory agencies, or from other third parties.

We may also collect your personal information if you:

- communicate with us by telephone, mail, email;
- attend a face-to-face meeting or event conducted by us;
- use our website.

We also monitor news and media, including social media, in the public domain.

By responding to our correspondence and the provision of documentation and information; or by registering and logging onto our online portal (TPS Online) you are consenting to the collection of any personal information you provide to us.

For further information on what we collect online see section 2.12 of this privacy policy.

## 2.7. Remaining anonymous or using a pseudonym

Due to the nature of the service and to enable us to carry out our functions and deliver services to you, it will be impractical for you to remain anonymous or use a pseudonym. We will need to know the identity of students whose tuition arrangements are protected and staff of providers who we may interact with.

## 2.8. Information collected by our consultants

Under the Privacy Act, we are required to take contractual measures to ensure that contracted service providers (including consultants) comply with the same privacy requirements applicable to us. When the TPS Director enters into agreements with contracted service providers, contractual obligations are imposed on providers to ensure they comply with relevant privacy obligations when collecting, using, disclosing, and holding personal information.

## 2.9. Storage and data security

### 2.9.1. Storage

We store personal information in a range of electronic records, including records that may be stored in the cloud.

Storage of personal information (and the disposal of information when no longer required) is managed in accordance with the Australian Government's records management regime. This includes the Archives Act, records authorities, general disposal authorities and other whole of government policies or standards issued by the National Archives of Australia.

### 2.9.2. Data security

We take all reasonable steps to protect the personal information held in our possession against loss, unauthorised access, use, modification, disclosure, or misuse.

Where you have been given (or where you have chosen) a password so that you can access certain parts of our site, you are responsible for keeping this password confidential.

Access to your personal information held by us is restricted to authorised persons on a need-to-know basis.

Electronic records containing personal information are protected in accordance with Australian Government security policies, including the Attorney-General's Department's [Protective Security Policy Framework](#) and the Australian Signals Directorate's [Information Security Manual](#).

## 2.10. Data quality

We take all reasonable steps to ensure that the personal information we collect is accurate, up-to-date, complete, relevant, and not misleading.

These steps include responding to requests to correct personal information when it is reasonable and appropriate to do so. For further information on the correction personal information see section 3 of this privacy policy.

## 2.11. Purposes for which information is collected, held, used and disclosed

The TPS Director will collect, hold, use and disclose personal information for a variety of different purposes including:

- collecting information from the Department of Education, Skills and Employment (the department) (as collected by the department under the TEQSA Act and Tuition Protection (Up-front Payments Guidelines) 2020) about domestic higher education up-front fee paying students as required to provide tuition protection to those students



- performing our legislative and administrative functions of providing tuition protection assistance to students. This includes assisting students after a provider default to facilitate the transfer of their studies to a replacement provider or to receive a refund or re-credit of tuition fees where applicable
- sharing information with other education providers for the purpose of facilitating transfers to replacement providers under the ESOS Act, VSL Act, HESA and the TEQSA Act
- sharing of information with other Australian Government agencies, including but not limited to:
  - the department, for the purposes of administering arrangements relating to tuition protection under the ESOS Act, the VSL Act, HESA and the TEQSA Act
  - the Australian Government Actuary, to assist with the performance of duties or functions or exercise powers relating to tuition protection under ESOS Act, VSL Act, HESA, TESQA Act, [VET Student Loans \(VSL Tuition Protection Levy\) Act 2020](#), [Higher Education Support \(HELP Tuition Protection Levy\) Act 2020](#), [Higher Education \(Up-front Payments Tuition Protection Levy\) Act 2020](#) in relation to the calculation of levies
  - Department of Home Affairs, in relation to confirming a student’s study or visa status
  - Services Australia, for the purposes of student payments
  - Overseas Student Ombudsman and VSL Ombudsman, in relation to complaints received from international and VET Student Loan students
  - Education regulators, such as the Tertiary Education Quality and Standards Agency, Australian Skills Quality Agency, Victoria Registration and Qualifications Authority (VRQA), Training Accreditation Council Western Australia (TAC WA), for the purposes of compliance with the relevant regulator’s law.
- process and respond to any complaint you make;
- contract management; and
- answer questions and provide information or advice in relation to tuition protection assistance.

We use and disclose personal information for the primary purposes for which it is collected.

We will only use your personal information for secondary purposes where we are able to do so in accordance with the Privacy Act. This may include where you have consented to this secondary purpose, or where the secondary purpose is related (or if sensitive information, directly related) to the primary purpose and you would reasonably expect us to do so. We may also use it where it is required or authorised by law or where a permitted general situation exists such as to prevent a serious threat to safety.

Likely secondary purposes for which we may use or disclose your personal information include: (but are not limited to) reporting, evaluation and analysis, investigations of fraud or misconduct and data sharing.

## 2.12. TPS webpage

### 2.12.1. Departmental website

The TPS’ webpage is accessed through the department’s website. Information on the collection of your information—including personal information by the department—via the department’s website is outlined in the department’s [privacy policy](#).

### 2.12.2. Links to External Websites and Social Networking Services

The TPS webpage includes links to other websites. We are not responsible for the content and privacy practices of other websites. We recommend that you examine each website's privacy policy separately.

### 2.13. Electronic communication

There are inherent risks associated with the transmission of information over the internet, including via email. You should be aware of this when sending personal information to us via email or via our website. If this is of concern to you then you may use other methods of communication with us, such as post or telephone (although these also have risks associated with them).

### 2.14. Disclosure of personal information overseas

The TPS Director does not generally disclose personal information to overseas recipients. However, we may disclose personal information overseas where recipients of TPS communications use an email account that stores data on an overseas server or where a student undertakes study overseas with an Australian registered higher education provider.

We will not disclose your personal information to an overseas recipient unless one of the following applies:

- the recipient is subject to a law or binding scheme substantially similar to the APPs, including mechanisms for enforcement;
- you consent to the disclosure after being expressly informed that we will not be taking reasonable steps to ensure that the overseas recipient does not breach the APPs;
- a permitted general situation exists (e.g. to lessen or prevent a serious threat to life, health, or safety)<sup>4</sup>;
- disclosure is required or authorised by law, or by an international agreement relating to information sharing to which Australia is a party; or
- the disclosure is reasonably necessary for an enforcement related activity conducted by, or on behalf of, an enforcement body and the recipient performs similar functions.

It is not practicable to list every country to which we may provide personal information as this will vary depending on the circumstances.

### 2.15. Unauthorised access, use or disclosure of personal information

We will take seriously and deal promptly with any unauthorised access, use or disclosure of personal information.

The Notifiable Data Breaches (NDB) scheme in Part IIIC of the Privacy Act, generally requires agencies and organisations to notify individuals whose personal information is involved in a data breach that is likely to result in serious harm to those individuals. These entities are also required to notify the Office of the Australian Information Commissioner. We comply with the NDB scheme when dealing with these types of data breaches.

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<sup>4</sup> Permitted general situations are set out in Section 16A of the Privacy Act. (<https://www.legislation.gov.au/Series/C2020C00237>)

The TPS Director also has regard to relevant guidance material issued by the Office of the Australian Information Commissioner, including the '[Data breach preparation and response - A guide to managing data breaches in accordance with the Privacy Act 1988 \(Cth\)](#)'<sup>5</sup> when responding to any incidents involving the unauthorised access of, use or disclosure of personal information.

### 3. Accessing and Correcting Your Personal Information

#### 3.1. How to seek access to and correct personal information

You have a right under the Privacy Act to access personal information we hold about you.

You also have a right under the Privacy Act to request corrections of any personal information that we hold about you if you think the information is inaccurate, out-of-date, incomplete, irrelevant, or misleading.

To access or seek correction of personal information we hold about you, please contact us using the contact details set out at section 5 of this privacy policy.

#### 3.2. Our access and correction process

If you request access to, or correction of, your personal information, we must respond to you within 30 calendar days.

While the Privacy Act requires that we give you access to, or correct your personal information on request, it does set out circumstances in which we may refuse you access or decline to correct your personal information.

If we refuse to give you access or decline to correct your personal information, we will provide you with a written notice which, among other things, gives our reasons for refusing your request.

It is also possible to access and correct documents held by us under the FOI Act. For information on this, please contact the department's FOI Coordinator (contact details are available on the [Freedom of Information](#) page of the department's website).

For further information on requesting access to, or correction of, your personal information please email [operations@TPS.gov.au](mailto:operations@TPS.gov.au).

#### 3.3. If you are unsatisfied with our response

If you are unsatisfied with our response, you may make a complaint, either directly to us (see section 4 below), or you may wish to contact:

- the Office of the Australian Information Commissioner at [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au) or telephone 1300 363 992; or
- the Commonwealth Ombudsman by lodging a Complaint Form online or telephone 1300 362 072.

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<sup>5</sup> [www.oaic.gov.au/agencies-and-organisations/guides/data-breach-preparation-and-response](http://www.oaic.gov.au/agencies-and-organisations/guides/data-breach-preparation-and-response)

## 4. Complaints

The Tuition Protection Service Director is committed to a quick and fair resolution of complaints and will ensure your complaint is taken seriously and investigated appropriately. You will not be victimised or suffer negative treatment if you make a complaint.

The Tuition Protection Service Director's Privacy Complaints Handling Policy can be found on the TPS website.

### 4.1. How to make a complaint

If you think we may have breached your privacy you may make a complaint using the contact details set out below at section 5. To ensure that we fully understand the nature of your complaint and the outcome you are seeking; we prefer that you make your complaint in writing. To assist you to do this there is a Privacy Complaint Form at the end of the Tuition Protection Service Director's Privacy Complaints Handling Policy.

### 4.2. If you are unsatisfied with our response

If you are not satisfied with the way we have handled your complaint in the first instance, you may contact the Office of the Australian Information Commissioner to refer your complaint for further investigation. Please note that the Information Commissioner may not investigate if you have not first brought your complaint to our attention.

#### **Office of the Australian Information Commissioner**

Telephone: 1300 363 992  
Email: via [the OAIC online enquiry form](#)<sup>6</sup>  
Post: GPO Box 5218  
Sydney NSW 2001

## 5. Contact us

### 5.1. General enquiries, complaints, requests for access or correction

If you wish to:

- query how your personal information is collected, held, used, or disclosed by us;
- ask questions about this privacy policy;
- request access to or seek correction of your personal information; or
- make a privacy complaint;

please contact us:

#### **By mail:**

Tuition Protection Service  
LOC: C50MA1  
GPO Box 9880  
Canberra ACT 2601

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<sup>6</sup> OAIC [Enquiry Form](#)

**By email:**

[operations@TPS.gov.au](mailto:operations@TPS.gov.au)

## 5.2. Availability of this privacy policy

If you wish to access this privacy policy in an alternative format (e.g. hard copy) please contact us using the contact details set out above at section 5 . This privacy policy will be made available free of charge.

## 6. Privacy Policy Updates

This privacy policy will be reviewed at least annually and updated as required.

Date policy last updated: April 2021