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Submission to the Senate Education and Employment Legislation Committee

Higher Education Support (Charges) Bill 2018 and Higher Education Support Amendment (Cost Recovery) Bill 2018

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November 2018

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This submission may be cited as:
Norton, A. (2018). *Grattan submission to the Senate inquiry into the HELP cost recovery bills*, Grattan Institute.

Summary

The two HELP cost recovery bills would shift some of HELP's costs from the government to higher education providers.

Conceptually, it is not clear that HELP's cost recovery should be from higher education providers. HELP is a government program that aims to assist students, and they are its main beneficiaries. The providers assists with HELP's implementation, rather than HELP being a service provided to them.

The *Higher Education Support Amendment (Cost Recovery) Bill* proposes a charge on higher education providers seeking access to FEE-HELP. The submission notes that it comes on top of a number of other changes making it more difficult for new higher education providers to enter the market, especially if they plan on offering courses to domestic students. It recommends rejecting the proposal to charge an application fee.

1 Should higher education providers pay for HELP's administration?

The two bills under consideration in this inquiry impose new charges on higher education providers. While they are separate for Constitutional reasons, their common purpose is cost recovery for the HELP loan scheme.

According to the Commonwealth's charging framework, 'where specific demand for a government activity is created by identifiable individuals or groups they should be charged for it unless the Government has decided to fund that activity'.[1] Assuming that this is a good policy objective, it raises the issue of who should be charged for HELP's administrative costs.

HELP is a government program to assist students, as the title of chapter 3 of the *Higher Education Support Act 2003* states: 'Assistance to students'. The Constitutional basis of this part of *HESA* is the 'benefits to students' power (section 1(xxiiiA)). It is part of Commonwealth policy to maintain access to higher education, to manage the financial risks of pursuing higher education, and adjust repayments of HELP debt to the debtor's financial situation. The demand for the activity comes from students. Although higher education providers also benefit from HELP payments, that is incidental to the scheme's purpose and legal basis.

From this perspective, it might be argued that rather than the Department of Education and Training providing a service to higher education providers, it is the providers who are providing a service to the Department in managing a substantial part of the process of students applying for HELP. In England, for example, students wanting an income contingent loan apply through a government website.[2] In Australia, much of this process is organised by higher education providers, which act as intermediaries between the students and the government. The Department says that it receives about 6,000 direct enquiries a year relating to higher education providers, which is many less than they would receive if they had to directly handle the 969,000 HELP borrowers.[3]

If HELP cost recovery is to be pursued as a policy objective, a student charge added to their HELP loan may more closely match the cost recovery policy. New Zealand already has administrative cost recovery for their student loan scheme. Borrowers are charged a $60 establishment fee and a $40 annual administration charge.[4] Loan fees, as currently applying to some students, and which could be levied on all students borrowing under HELP, could cover administration as well as other HELP costs.[5]

1 Department of Finance (2015), p. 7
2 See the Student Loan Company website.
3 Department of Education and Training (2018a), p. 9, Department of Education and Training (2018b), table 5.7.
4 Ministry of Education (NZ) (2017), p. 54
5 See Norton and Cherastidtham (2016).

2 Should higher education providers be charged for seeking access to FEE-HELP?

Among the proposed charges is an application fee for providers seeking to give their students access to FEE-HELP.[6] According to the Department of Education and Training's draft cost recovery implementation statement, this charge is likely to be about $13,000.[7]

As well as being considered in the context of the overall charging policy, this charge should also be considered alongside other policy changes affecting new and prospective higher education providers.

In an understandable desire that VET FEE-HELP-type issues not occur in higher education, the barriers to becoming a higher education provider have increased in recent years. For TEQSA, this included tightening the 'fit and proper' person rules for higher education provider directors and staff. In 2017-18, TEQSA received 30 applications from prospective higher education providers, but approved only three.[8] Two recently registered providers only succeeded after taking their cases to the Administrative Appeals Tribunal.

As part of the same set of Budget measures as the HELP charges, TEQSA will be moving from partial to full cost recovery. That will lead to increased application fees for new higher education providers. Similarly, there will be increased charges for accrediting each course. These increases can occur via a legislative instrument.

The most problematic policy changes affecting new providers are in the *Education Legislation Amendment (Provider Integrity and Other Measures) Act 2017*. Among other things, this Act gave the minister broader discretion to reject higher education providers applying for access to FEE-HELP. The provider integrity legislation essentially assumes that TEQSA's decisions are not a sufficient basis for deciding on HELP, and extra conditions such as the provider's period of registration should be considered. A period of three years is specifically mentioned, although providers with shorter periods of operation have been approved since.

Without FEE-HELP, it is difficult for new providers to compete in the domestic undergraduate market. Students at new providers will have to pay their fees up-front, which would completely exclude some students who do not have the money, and encourage those who do to consider other providers which can offer FEE-HELP. Compounding the problem, the government has also recently linked student income support eligibility to HELP.[9] Financial viability is a crucial risk factor for both TEQSA and the Department in administering HELP, but denying access to FEE-HELP increases the risk that a provider will not be financially viable.

[6] *Higher Education Support Amendment (Cost Recovery) Bill 2018*, amending section 16-40 of the *Higher Education Support Act 2003*.
[7] Department of Education and Training (2018a), p. 11
[8] TEQSA (2018), p. 36.
[9] See changes to the *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2)*, Schedule 2.

The domestic postgraduate market would also be affected by the absence of FEE-HELP, although in these cases it is more likely that students could afford fees themselves or that employers will pay the fees. There are several long-standing colleges providing professional development courses that have never offered FEE-HELP.

In the context of existing costs and obstacles to becoming a higher education provider with FEE-HELP, the application fee proposal in the cost recovery bill is a minor additional problem. On its own, it is not likely to significantly undermine the policy goal of ensuring that domestic students do not need to pay upfront fees. But as part of a series of adverse policy changes affecting non-university higher providers and their students it should receive more critical attention. Higher education policy has become more ad hoc in the last few years, and the cumulative effects of decisions made for a variety of different reasons are not necessarily apparent to policymakers. The increasingly unfavourable environment for non-university higher education providers and their students is not based on any specific decision to make things difficult for them. Rather, it is due to the government's pursuit of Budget savings and its reaction to the VET FEE-HELP fiasco.

Rejecting the application charge would be a small recognition that FEE-HELP should be available to as many students as possible.

3 References

Department of Education and Training (2018a) *Cost recovery implementation statement: cost recovery for the HECS-HELP and FEE-HELP programs, financial year 20018-19*, Department of Education and Training

Department of Education and Training (2018b) *Students: Selected higher education statistics 2017*, Department of Education and Training

Department of Finance (2015) *Australian Govenrment charging framework: resource management guide no. 302*, Department of Finance

Ministry of Education (NZ) (2017) *Student loan scheme annual report 2016/17*, New Zealand Ministry of Education

Norton, A. and Cherastidtham, I. (2016) *Shared interest: a universal loan fee for HELP*, Grattan Institute

TEQSA (2018) *Tertiary Education Quality and Standards Agency annual report 2017-18*, Tertiary Education Quality and Standards Agency