



Australian Government

Department of Education

Attorney-General's Department

Universities Accord (National Student Ombudsman) Bill 2024

Submission from the Department of Education and the
Attorney-General's Department to the Senate Standing
Committee on Education and Employment Legislation



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Introduction

The Department of Education (DoE) and the Attorney-General's Department (AGD) welcome the opportunity to make a submission to the Education and Employment Legislation Committee's Inquiry into the Universities Accord (National Student Ombudsman) Bill 2024 (the Bill).

The Bill amends the *Ombudsman Act 1976* (Ombudsman Act) to establish a National Student Ombudsman as the primary escalated complaints mechanism for higher education students, implementing recommendation 18b of the Australian Universities Accord (the Accord).

The Accord was the biggest and broadest review of the higher education sector in 15 years. It sets out a blueprint for higher education reform for the next decade and beyond.

The establishment of a National Student Ombudsman is also the first action of the *Action Plan Addressing Gender-based Violence in Higher Education* (Action Plan), agreed to by all Education Ministers on 23 February 2024. The Action Plan recognises the unique role that higher education providers can and must play in driving the broader social change needed to address gender-based violence, as well as the distinct responsibilities they hold in relation to creating safe study, work, social and living environments.

As part of implementing the Action Plan, the Government has also committed to introducing a *National Higher Education Code to Prevent and Respond to Gender-based Violence* (National Code), which will set best practice requirements for higher education providers in preventing and responding to gender-based violence.

In the 2024-25 Budget, the Government provided \$19.4 million over two years to establish the National Student Ombudsman as an ongoing function of the Commonwealth Ombudsman. Partial funding for this measure has been provisioned in the Contingency Reserve, with Government to explore arrangements for cost recovery from higher education providers from 2026–27. The Government also provided \$18.7 million over four years from 2024-25 to implement the National Code.

The Bill was introduced in the House of Representatives on 11 September 2024 and referred to Committee on 19 September 2024.

The Bill was developed in close consultation with the Office of the Commonwealth Ombudsman and informed by engagement with state and territory departments responsible for higher education and ombudsman functions.

The National Student Ombudsman is expected to start receiving complaints from 1 February 2025, subject to passage of legislation.

Role of the Departments

DoE and AGD have different roles and responsibilities regarding the establishment of the National Student Ombudsman.

- DoE has responsibility for higher education and chaired the Working Group of senior Commonwealth, state and territory officials that developed the Action Plan, which recommended the establishment of the National Student Ombudsman.
- AGD has responsibility for administering the Ombudsman Act, proposed to be amended by the Bill. The Ombudsman Act is the primary legislation governing the establishment and functions of the Commonwealth Ombudsman.

Key amendments to the Ombudsman Act

The Bill amends the Ombudsman Act to establish a National Student Ombudsman as a new statutory office to be held by the Commonwealth Ombudsman.

The National Student Ombudsman will be independent, impartial and provide higher education students with access to an effective, trauma-informed escalated complaints mechanism.

It will be able to handle complaints from higher education students about the actions of their higher education providers. The National Student Ombudsman will be able to handle complaints about a broad range of issues - from gender-based violence to reasonable adjustments for students living with disability. It will also be empowered to conduct own motion investigations into actions of higher education providers, including investigating systemic issues.

In handling complaints and conducting own motion investigations, the National Student Ombudsman will be able to consider whether actions taken by a provider were contrary to law, unreasonable, unjust, oppressive, discriminatory or otherwise wrong and make recommendations for rectification or change.

The National Student Ombudsman will have broad powers to:

- handle complaints about the actions of higher education providers in relation to higher education students
- investigate a higher education student's complaint or investigate an issue on their own motion, including:
 - making preliminary inquiries to determine whether a matter should be investigated
 - requiring a person or provider to provide information, documents or other records relevant to an investigation
 - entering the premises of a higher education provider to carry out an investigation
 - requiring a person to attend a specified place and answer questions.
 - referring a complaint to another body with the student's consent, where that body is better placed to deal with a complaint and provide associated information and documents as part of the referral
- not deal with a complaint in particular circumstances such as if the complaint is frivolous or vexatious or has already been adequately dealt with by another complaints body
- offer a restorative engagement process between a student and provider where appropriate

- offer alternative dispute resolution, such as mediation and conciliation, to settle complaints where appropriate
- make recommendations to a provider about the administrative steps that should be taken to resolve a complaint
- require a provider to give particulars about any action they propose to take in response to recommendations
- disclose information and provide investigation reports to DoE and the Tertiary Education Quality and Standards Agency (TEQSA) where relevant
- provide the Minister for Education with a copy of an investigation report for tabling in Parliament, if the National Student Ombudsman considers the higher education provider has not taken appropriate action in response to its findings or recommendations
- publicly disclose reports or make a statement if, in the National Student Ombudsman's opinion, it is in the public interest to do so
- report annually on complaint volumes by provider and complaint type, recommendations made and actions taken in response to recommendations.

The National Student Ombudsman will be required to comply with rules of procedural fairness. This includes a requirement that before finalising a report which includes criticism of a provider or a person, the National Student Ombudsman give that provider or person an opportunity to make a submission.

The National Student Ombudsman's complaint handling and investigations staff will be trained in trauma-informed practices. This trauma-informed approach will promote safe and person-centred experiences that support the wellbeing of complainants. While this approach will be primarily achieved through non-legislative practices and procedures, it will be supported by several legislative provisions which ensure the confidentiality, consent and agency of complainants, including:

- provisions designed to remove the need for complainants to re-tell their story to have it managed by the most appropriate body, including:
 - powers for the National Student Ombudsman to refer complaints to another body with the student's consent where that body is better placed to deal with a complaint, and
 - provisions which enable other prescribed bodies, such as state and territory ombudsmen, to transfer a complaint and associated documents to the National Student Ombudsman
- the ability to accept historical complaints, and complaints made on behalf of another person with that student's consent
- powers to offer restorative engagement where appropriate and with the student's consent
- requirements to obtain a student's consent before the National Student Ombudsman deals with a complaint in any of the ways detailed in proposed section 21AG of the Bill
- requirements that protect the confidentiality of information identifying the complainant during complaint handling and reporting processes.

It will be an offence for a person to threaten or subject another person to detriment because that other person has made, may have made, proposes to make or could make a complaint to the National Student Ombudsman. Students will also be able to apply for a range of civil remedies to prevent or address detrimental action that is taken.

The Bill also makes minor consequential amendments to other Acts, including the *National Anti-Corruption Commission Act 2022* (NACC Act), *Privacy Act 1988* (Privacy Act) and *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act) to facilitate the establishment of the National Student Ombudsman.

Functions of the National Student Ombudsman

The primary role of the National Student Ombudsman is to deal with individual higher education student complaints and to improve complaint handling by higher education providers.

The statutory functions of the National Student Ombudsman outlined in the Bill are intended to be broad to support this role.

The statutory functions include:

- dealing with complaints made by, or on behalf of, higher education students about action taken by their higher education provider
- conducting investigations, both in response to complaints made by higher education students and on the National Student Ombudsman's own initiative
- reporting and making recommendations about actions of higher education providers
- giving higher education providers advice and training about best practice for the handling of complaints made by, or on behalf of, higher education students
- any other functions that are conferred on the National Student Ombudsman by the Ombudsman Act or any other Act, or a legislative instrument made under the Ombudsman Act or another Act.

These functions provide the National Student Ombudsman with scope to investigate and make recommendations about actions of higher education providers, provide assurance that higher education providers are acting fairly and with integrity, influence systemic improvement in the sector and provide education about best practice complaints-handling.

Complaints

Division 3 of the Bill sets out matters relating to who can make a complaint to the National Student Ombudsman, the grounds for complaint, the transfer of complaints and the ways that a complaint can be handled.

Who can make a complaint

The Bill is drafted to ensure that the National Student Ombudsman is able to consider:

- complaints made on behalf of another person, with their consent
- anonymous complaints
- group complaints
- historical complaints
 - There will be no time limit on the historical complaints the National Student Ombudsman may consider, if the National Student Ombudsman believes the complaint is still able to be effectively handled.

The definition of a higher education student for the purposes of the amendments made by the Bill is intended to be broad and capture a current, former or prospective student in relation to any course of study with a higher education provider, other than a vocational education and training (VET) course. The inclusion of 'prospective students' ensures that persons who have applied, or are attempting to apply, to become enrolled, or are in the process of enrolling in a course of study are able to make a complaint to the National Student Ombudsman about the actions of their provider. Consideration may be given to expanding the National Student Ombudsman to VET students over time. Further engagement with stakeholders, including states and territories, would occur on this at a suitable time.

The National Student Ombudsman will also be able to accept complaints about accommodation made by students living in accommodation which is owned and/or operated by their higher education provider (i.e. where a student is able to make a complaint about their accommodation to their higher education provider).

Grounds for making a complaint

Students will be able to complain about a broad range of issues related to their studies or student life, from student safety and welfare to disciplinary processes and reasonable adjustments for students living with disability.

The National Student Ombudsman will not be able to handle complaints about 'excluded actions'. Excluded actions include:

- actions that rely on academic judgement (such as the grade a student has received)
- actions relating to a VET course
- actions relating to employment.

The Bill enables additional excluded actions to be prescribed by the National Student Ombudsman Rules. This provides flexibility if it becomes apparent that it is not appropriate for the National Student Ombudsman to deal with complaints about other matters.

The Bill also enables the National Student Ombudsman Rules to prescribe anything that is not to be considered an excluded action, despite what is written on the face of the Bill. This provides flexibility to allow actions that would otherwise be excluded to be included within the National Student Ombudsman's jurisdiction if it becomes clear that the scope of excluded actions is affecting the National Student Ombudsman's ability to provide an effective complaints-handling process or is inappropriately limiting the matters that students could complain about.

Transfer of complaints

The Bill authorises other complaint bodies prescribed in the National Student Ombudsman Rules to share information with and refer a complaint to the National Student Ombudsman despite anything in another law of the Commonwealth, or a law of a state or territory. This will ensure that warm referrals from bodies such as state and territory ombudsmen can be facilitated, contributing to a trauma-informed approach to complaints-handling. This responds to strong feedback from stakeholders about the need to minimise the number of times a victim-survivor is required to re-tell their story to avoid re-traumatisation.

The National Student Ombudsman will also work cooperatively with state and territory ombudsmen and other relevant bodies, such as human rights, anti-discrimination and equal opportunities bodies. With the consent of a complainant, it will be able to transfer all or part of a complaint to another body where that body is better placed to deal with a complaint. It will also be able to disclose relevant information to other bodies as part of the referral.

Ways of handling complaints

The Bill outlines the ways the National Student Ombudsman may handle a complaint, including:

- referring the complaint to the higher education provider for investigation
- using a restorative engagement process
- using an alternative dispute resolution process, or
- conducting an investigation.

The ways of handling a complaint are not mutually exclusive, and the National Student Ombudsman may use one or more method to try to resolve a particular complaint. The National Student Ombudsman will need the consent of the complainant before taking action to handle a complaint using any of the above methods.

The National Student Ombudsman will have a range of powers it can draw on in the course of dealing with a complaint and conducting an investigation. These are provided in proposed Division 6 in Part 1 of the Bill, and include:

- making inquiries to determine whether a matter should be investigated
- requiring a person or provider to provide information, documents or other records relevant to an investigation
- entering the premises of a higher education provider to carry out an investigation
- requiring a person to attend a specified place and answer questions.

Proposed section 21AZF gives the Commonwealth Ombudsman the discretion to deal with complaints as either the Commonwealth Ombudsman, Overseas Students Ombudsman, VET Student Loans Ombudsman or National Student Ombudsman. This provision is intended to allow complaints to be handled and directed as appropriate in the backend of the Office of the Commonwealth Ombudsman and without requiring complainants to make multiple complaints.

Referral of a complaint to higher education providers

The National Student Ombudsman may, with the complainant's consent, refer the complaint to the higher education provider. This will allow the National Student Ombudsman to require a provider to investigate a complaint where this is likely to be more effective or appropriate than the National Student Ombudsman starting an investigation. For example, this may be appropriate where a student has complained to their provider and there have been unreasonable delays in consideration of the complaint, or the provider appears not to have considered the complaint.

In referring the complaint, the National Student Ombudsman will be able to request that the provider investigate the complaint, and report back within a specified time on the outcome of the investigation and any actions it proposes to take to resolve the complaint.

The National Student Ombudsman will also be able to make recommendations based on a report it receives from a higher education provider. This means that if there are deficiencies in the provider's handling of the complaint, for example if the provider has failed to propose sufficient action to resolve the complaint, the National Student Ombudsman will be able to make recommendations without commencing a new investigation or requiring the student to make a new complaint.

Restorative engagement

Where appropriate, the National Student Ombudsman can offer a voluntary restorative engagement process between a student and a provider. For example, this voluntary process could support reporters of gender-based violence and other forms of sexual violence to safely share their story with a representative of their higher education provider in a private restorative engagement session, facilitated by a highly experienced professional. This also provides the opportunity for the provider to acknowledge and respond to the student's personal story.

A fundamental principle of the restorative engagement process is that a student's privacy, safety and wellbeing are of paramount importance throughout their participation in the process.

Alternative dispute resolution

The National Student Ombudsman, in appropriate circumstances, will be able to try to settle a complaint using an alternative dispute resolution process, such as mediation or conciliation. These processes involve an independent third party (such as a National Student Ombudsman staff member or contracted accredited mediator) bringing the student and provider together to help resolve a dispute. Participation in an alternative dispute resolution process will always be voluntary for students, however the National Student Ombudsman will be able to direct a provider to participate.

If a provider is directed to participate, they will be required to do so in good faith. This includes participating genuinely and transparently and observing requirements of confidentiality. It will be an offence for a person who is directed to participate in an alternative dispute resolution process by the National Student Ombudsman to fail to participate in all or part of that process, provided the complainant attends, or was willing to attend, the process.

Investigations

The National Student Ombudsman will have the power to undertake investigations in response to individual complaints as well as on its own motion. Own motion investigations can be undertaken in relation to both the action of a single provider and systemic issues in the sector across multiple providers. The National Student Ombudsman will not be able to investigate a complaint about an excluded action.

Proposed Division 4 in Part 1 of the Bill provides for the circumstances in which the National Student Ombudsman can investigate a complaint, with the complainant's consent, and the conduct of such investigations.

In investigating a matter, the National Student Ombudsman will be required to observe a range of procedural fairness requirements for providers.

- Before the National Student Ombudsman commences an investigation in relation to a higher education provider, they must inform the principal executive officer of the provider about

the investigation. This ensures fairness for providers, who are entitled to be made aware of any investigations being undertaken into their actions.

- An investigation must be conducted in private and, subject to the Ombudsman Act, in the manner the National Student Ombudsman sees fit. It is appropriate that investigations be conducted in private to prevent a provider from suffering reputational damage, before the outcome of the investigation is known.
- The National Student Ombudsman must give a higher education provider or an officer of the provider the opportunity to make submissions before completing an investigation if the National Student Ombudsman was proposing to make a report that set out opinions that were critical, whether expressly or by implication, of the provider or officer. The National Student Ombudsman cannot make a report unless they have afforded this opportunity to the provider or officer before finalising the investigation.

Reporting

Reports following an investigation

Following completion of an investigation, whether in response to an individual complaint or an own motion investigation, the National Student Ombudsman may make a report and include recommendations.

The National Student Ombudsman is required to make a report to a higher education provider if it has completed an investigation and is of the opinion that action taken appeared to be contrary to law, was unreasonable, unjust, oppressive or improperly discriminatory, or was otherwise in all the circumstances wrong, and some particular action could and should be taken to rectify, mitigate or alter the effects of the action taken, a policy or practice on which the action was taken was based should be altered, reasons for taking the action were not given but should have been given, or any other thing should be done in relation to the action taken.

The report will include the reasons for the opinions set out in the report and any recommendations the National Student Ombudsman sees fit to make. The National Student Ombudsman will be required to comply with rules of procedural fairness, this means that before finalising a report which includes criticism of a provider or a person, the National Student Ombudsman will give that provider or person an opportunity to make a submission. The National Student Ombudsman will not disclose the name of the complainant or other identifying information in the report unless the complainant has consented to the disclosure. If the recommendations are in response to a student complaint, the student will also be informed of the recommendations.

The National Student Ombudsman will be able to require providers give particulars of any action that the provider proposes to take with respect to the matters and recommendations in the report within a specified time period. This ensures the National Student Ombudsman can seek information necessary to monitor a provider's progress in implementing recommendations. The National Student Ombudsman will also be able to use their information-gathering powers for the purposes of considering whether a higher education provider has taken adequate and appropriate action in respect of any recommendations.

After having given a copy of the report to a provider, the National Student Ombudsman may, at its discretion, provide a copy of the report and any comments given by the provider to any of the following:

- the Minister for Education
- the Secretary of DoE
- the Chief Executive Officer of TEQSA.

If the National Student Ombudsman has given a report to a provider and, in the opinion of the National Student Ombudsman, the provider has not taken adequate and appropriate action in respect of the matters and recommendations in the report within a reasonable time after receiving the report, the National Student Ombudsman may give a copy of the report and the provider's comments (if any) to the Minister for Education and request the Minister for Education table the report and comments before each House of Parliament.

Annual reports

Annual reporting on the National Student Ombudsman's operations and performance of functions will be publicly available and tabled in both Houses of Parliament. This will include reporting on the number and nature of complaints per higher education provider, which will enhance transparency and publicly hold providers to account. Annual reporting will not include any identifying information about a complainant unless the complainant has consented to the disclosure.

The annual report will also include the National Student Ombudsman's observations about any trends in complaints or any broader issues arising from investigations, as well as improvements that could be made by higher education providers.

The National Student Ombudsman may also make public reports at other times throughout the year on its operations or the performance of its functions.

Protection from reprisals

The Bill makes amendments to the Ombudsman Act to provide that it will be a criminal offence to threaten or subject a person to detriment because they have made, may have made, propose to make or could make a complaint to the National Student Ombudsman or the Overseas Student Ombudsman, with a penalty of 6 months imprisonment.

A person will also be able to apply to the court for a range of civil remedies (such as compensation, apologies and injunctions) to prevent or address detrimental action that is taken, or threatened to be taken, because a person makes, may make, proposes to make or could make a complaint to the National Student Ombudsman or the Overseas Student Ombudsman.

The inclusion of these protections in the Bill responds to stakeholder feedback that students may avoid making a complaint when they have a genuine grievance because they fear retaliation from their higher education provider.

Providers that merge or cease to operate

Proposed section 21AZE provides a pathway for higher education students at providers that have ceased to operate or merged with another provider to access the National Student Ombudsman.

Where an entity has ceased to be a TEQSA registered provider but continues to exist (either as a constitutional corporation or a body corporate that is established by or under a law of the Commonwealth or a territory), the National Student Ombudsman will still be able to deal with a complaint made before or within 12 months of the provider being de-registered. This is intended to provide students with a pathway to make a complaint after their provider has ceased operating, and to permit the National Student Ombudsman to investigate such complaints. It also ensures that the National Student Ombudsman can continue to deal with complaints on foot at the time a provider ceases operating.

Proposed section 21AZE also enables students of providers that merge with another provider, or are succeeded by a different provider, to continue to have a pathway to the National Student Ombudsman for actions taken before the original provider ceased to exist. These amendments are particularly important to ensure students of the University of South Australia and the University of Adelaide will continue to be able to make a complaint to the National Student Ombudsman, once those universities merge to become Adelaide University in 2026.

Other consequential amendments

The Bill also makes minor consequential amendments to the NACC Act, Privacy Act and TEQSA Act to facilitate the establishment of the National Student Ombudsman.

The Bill amends paragraph 15(a) of the NACC Act to include a reference to the National Student Ombudsman to ensure the National Student Ombudsman is captured as a part of the relevant Commonwealth integrity agency of the Commonwealth Ombudsman for the purposes of the NACC Act.

The Bill inserts a reference to the National Student Ombudsman into subsection 50(1) of the Privacy Act enabling streamlined transfer of complaints to the National Student Ombudsman from the Information Commissioner.

The Bill inserts section 194A into the TEQSA Act to provide that TEQSA may disclose higher education information and personal information to the National Student Ombudsman if the disclosure is for the purposes of assisting the National Student Ombudsman to perform its functions or duties or exercise its powers. While TEQSA is not a complaints-handling body, it does receive information that, in substance, is of the nature of a complaint. This provision would allow TEQSA to share this information with the National Student Ombudsman which would then be able to contact the complainant to discuss the matter.

National Student Ombudsman Rules

Proposed section 21AZL enables rules to be made in relation to the functions and operations of the National Student Ombudsman. The National Student Ombudsman Rules may, for example, prescribe:

- kinds of actions that are or are not excluded actions (section 21AD)
- Commonwealth, state and territory bodies authorised to transfer complaints to, and share information with, the National Student Ombudsman (section 21AE)
- matters that the National Student Ombudsman is to have regard to when directing a higher education provider to participate in alternative dispute resolution or deciding that a complaint cannot be settled by alternative dispute resolution (sections 21AN and 21AP)
- information that must be included in a notice under section 21AZA requiring giving of information or documents or attendance to answer questions.

For the avoidance of doubt, subsection 21AZL(2) sets out things that cannot be done in the rules. These are:

- creating an offence or civil penalty
- providing powers of arrest or detention, or entry search or seizure
- imposing a tax
- setting an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in the Ombudsman Act
- directly amending the text of the Act.

Consultation

Public consultation was undertaken on the National Student Ombudsman between 22 November 2023 and 31 January 2024, as part of consultation on the Draft Action Plan. This included targeted consultation with students and victim-survivor advocates, gender-based violence experts, the higher education sector, and student accommodation providers.

Further targeted consultation was undertaken on the implementation of the National Student Ombudsman in June and July 2024. Consultation sessions were held with the higher education sector; students; organisations that represent culturally and linguistically diverse people, First Nations people, people with disability and LGBTQIA+ people; gender-based violence experts and victim-survivors and their advocates.

Broadly, key feedback from stakeholders during consultation included:

- the importance of communications and outreach, in particular:
 - the need to promote awareness of the National Student Ombudsman using student-centric and plain language communications to ensure it is visible to students
 - ensuring materials are available in foreign languages and First Nations languages
 - the need to provide clear, transparent guidelines on what students can expect from the National Student Ombudsman regarding timeframes, complaint outcomes, and what it means to take a trauma-informed approach.
- the need to ensure clarity regarding the scope and role of the National Student Ombudsman compared to regulators and other complaints bodies
- the importance of ensuring accessibility through the National Student Ombudsman complaints process, including:
 - reasonable adjustments for students with a disability
 - capturing and responding to communications preferences and needs of students.

- awareness of the different barriers that particular cohorts of students may face in making a complaint and ensuring that the National Student Ombudsman is safe and accessible to different groups of students.

The Australian Government is also working closely with state and territory governments through a monthly Policy Forum to support the implementation of the National Student Ombudsman.

National Higher Education Code to Prevent and Respond to Gender-based Violence

The Government's next step to improve the safety, wellbeing and experiences of higher education students is the introduction of a National Higher Education Code to Prevent and Respond to Gender-based Violence. The Education Minister, the Hon Jason Clare MP, has tabled a document in Parliament with more information about the National Code. This document is available at [Attachment A](#).

The purpose of the National Code is to ensure higher education providers work towards an education system free from gender-based violence. Subject to the finalisation and passage of legislation, the National Code will set standards across seven areas to ensure higher education providers embed a whole-of-organisation approach to preventing and responding to gender-based violence.

Proposed requirements will establish clear accountability at the individual and collective levels for compliance with the National Code; ensure providers take evidence-based approaches to preventing and responding to gender-based violence across their organisation; and enable victim-survivors and perpetrators to get the support they need, when they need it.

The National Code will complement the work of the National Student Ombudsman. It will include a requirement that higher education providers implement any recommendations of the National Student Ombudsman. It will also set a number of requirements in relation to complaints-handling, including timeframes within which providers must resolve formal reports of gender-based violence as well as the expertise needed to ensure processes are trauma-informed and procedurally fair. The Government is aiming to introduce legislation to establish the National Code this year.



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Department of Education

Attorney-General's Department

Attachment A – Summary of the draft National Code

Submission from the Department of Education and the
Attorney-General's Department to the Senate Standing
Committee on Education and Employment Legislation





Australian Government
Department of Education

HOUSE OF REPRESENTATIVES
47th PARLIAM. 1ST SESS.
145 11 SEP 24

National Higher Education Code to Prevent and Respond to Gender-based Violence & National Student Ombudsman

On 23 February 2024, Education and Higher Education Ministers agreed to and released the Action Plan Addressing Gender-based Violence in Higher Education (Action Plan). As part of the Action Plan, the Australian Government is:

- establishing a new National Student Ombudsman to enable higher education students to escalate complaints about the actions of their higher education provider if they're unsatisfied with their provider's response. The National Student Ombudsman will be independent, impartial and provide higher education students with an effective, trauma-informed complaints mechanism.
- introducing a new National Higher Education Code to Prevent and Respond to Gender-based Violence. The National Code will strengthen the accountability of registered higher education providers and ensure they embed a whole-of-organisation approach to preventing and responding to gender-based violence.
- enhancing the oversight, standards and accountability of student accommodation providers.

The National Student Ombudsman and National Code will be established through separate legislation. The Universities Accord (National Student Ombudsman) Bill will establish the National Student Ombudsman. The National Code will be established through forthcoming legislation.

The National Code will be implemented by a new expert unit currently being established in the Department of Education. This new unit will conduct targeted compliance; support providers by sharing best practice across the sector; and gather new and better data on gender-based violence in higher education. The unit will work closely with the National Student Ombudsman to ensure a coordinated regulatory approach.

The Code will set standards across seven areas. Requirements proposed under each standard, subject to finalisation and the passage of legislation, are set out here.

1. Leadership and governance

- The Vice-Chancellor, Chief Executive Officer or equivalent will be the individual person responsible for their organisation's compliance with the National Code.
- All higher education providers will be required to complete an annual report outlining their performance against the National Code and their plan to improve.
 - This means there will be clear accountability of leaders and providers.
 - There will be a report for every provider on their performance and their proposed actions for improvement.

2. Policies

- All relevant policies of a provider will be required to be updated to include a definition of gender-based violence that is in line with the legislated definition, specify that this is unacceptable behaviour and identify potential consequences for perpetrating gender-based violence.
- The use of non-disclosure agreements will be prohibited, unless requested by the complainant.
- Higher education providers will be required to implement recommendations made by the National Student Ombudsman.
 - These requirements mean there is a consistent national approach to gender-based violence, that victim-survivors are not silenced, and providers are held to account for their actions.
 - These requirements will see all staff and students who may have a role in disclosure trained to handle and report that disclosure.

3. Procedures

- All higher education providers will have to comply with detailed requirements to meet the National Code. The overarching aim of these requirements is to ensure that all formal reports of gender-based violence are investigated and a conclusion is reached within 45 business days. This timeframe includes associated disciplinary proceedings (excluding appeals).
- Higher education providers will be required to demonstrate that staff involved in responding to incidents of gender-based violence have and maintain specific expertise, including an understanding of the effects of trauma, intersectionality and procedural fairness.
- Higher education providers will also be obliged to provide regular updates to all parties as processes progress and notify complainants of outcomes and any sanctions.
- Where a higher education provider determines that gender-based violence has occurred and imposes a sanction, the unit will consider whether the sanction imposed is proportionate to the behaviour.
 - These requirements mean complaints are resolved swiftly by people with the right expertise, there is transparency about outcomes, and perpetrators are held to account.
 - These requirements will mean that a victim-survivor knows what support they can expect and the timeframes in which things should be worked through. It means that whatever happens, the victim-survivor will be kept up to date on the progress of the investigation.



4. Education and training

- Higher education providers will be required to deliver ongoing (not one-off) prevention education to all staff and students that addresses the drivers of and risk factors for gender-based violence.
- Higher education providers will also be required to ensure all staff, as well as governing body members and student representatives and leaders, receive regular training that equips them to respond effectively to disclosures of gender-based violence.
 - These requirements will mean everyone plays their role in ending gender-based violence and there is 'no wrong door' for a victim-survivor.

5. Support services

- Higher education providers will be required to demonstrate that people delivering counselling to people affected by gender-based violence have specific training in this area and that providers prioritise victim-survivors' and alleged perpetrators' access to this counselling and other support services.
- Higher education providers will be required to have a policy that sets service-level standards for access to and delivery of all support services.
 - These requirements will ensure everyone involved gets the support they need when they need it.

6. Data and reporting

- Higher education providers will be required to collect and maintain fit-for-purpose data about gender-based violence experienced by their students and staff.
- This will create a national dataset that can be used to monitor providers' performance and add to the national evidence base on gender-based violence.
- Higher education providers will be required to submit de-identified, aggregated data on an annual basis to the Department on types of gender-based violence experienced by staff and students, along with victim-survivor demographic and enrolment/employment characteristics where possible.
- Higher education providers and the Department will observe individuals' consent and protect their privacy and confidentiality in any proposed collection and reporting of data.
 - These requirements will create a national picture of student and staff experiences and enable providers to target their efforts.
 - The end product of these requirements is a better evidence base to inform policy and responses from individual providers and at the national level.

7. Student accommodation

- Student accommodation owned and operated by higher education providers will need to meet strict requirements that are targeted to the unique context of residential settings. This will include immediately responding to a disclosure or formal report and urgently implementing safety measures.
- Higher education providers will also be required to demonstrate they have agreements in place with affiliated accommodation providers that enable information-sharing to protect the safety of residents and reduce the need for multiple disclosures about the same incident.
 - These requirements will mean the safety of victim-survivors is instantly prioritised and all parties work together to support them.

