

UNSW Submission

UNSW Sydney welcomes the opportunity to comment on the Draft Action Plan addressing gender-based violence in higher education.

Executive Summary

The following are the key points of this UNSW submission in response to the Draft Action Plan to address gender-based violence in higher education:

- 1) UNSW strongly supports taking action to eliminate sexual harm on Australian university campuses. This is critical to ensuring a positive, safe, and rewarding experience at university for all students and staff.

A 'whole of institution' approach

- 2) We welcome the 'whole of institution' approach outlined in the Draft Action Plan, allowing each higher education provider to focus on the specific requirements of their communities, while also supporting sector-wide and national efforts to eliminate gender-based violence.
- 3) The collection and reporting of data on a 'whole of institution' basis is critical to inform ongoing efforts to prevent and respond to gender-based violence. Furthermore, the evidence base and expertise of research centres and other academic staff in related fields should be drawn upon.

Ensuring students from different cohorts are supported

- 4) Policies and resources designed to support different student cohorts (eg. LGBTQIA+, international, Indigenous and Torres Strait Islander, people living with disability and higher degree research candidates) should be co-designed in close collaboration with representatives of those groups, while addressing any barriers to their participation.

The proposed National Student Ombudsman proposal

- 5) While positive, the creation of a proposed new National Student Ombudsman in its current form risks negative unintended consequences. These include:
 - Duplication of existing regulatory or complaints handling functions in some jurisdictions, thereby risking confusion as to the most appropriate agency to direct a complaint to, in turn leading to inconsistent outcomes, delays in response time and undermining the accuracy of any data collected.
 - Ambiguous scope, with jurisdiction to consider issues extending beyond addressing gender-based violence, thereby reducing the focus on gender-based violence.

- Resources allocated to duplicating some existing functions could be better spent focusing on prevention programs.
 - Unintentionally driving a focus on regulatory compliance rather than addressing the underlying issue of gender-based violence.
- 6) Should a new National Student Ombudsman be established, the following actions should occur to ensure it is set up for success, and avoiding the problems outlined above:
- Undertake a comprehensive gap analysis to understand which proposed functions are not already covered, and in which jurisdictions this is the case. This would help avoid duplicating or superseding existing complaint mechanisms.
 - Further work should then be undertaken to clarify the Ombudsman’s powers, and to delineate the scope of the Ombudsman with regard to existing bodies, such as State and Commonwealth Ombudsmen, the Tertiary Education Quality and Standards Agency (TEQSA), the Australian Skills Quality Authority (ASQA), the Administrative Appeals Tribunal (AAT), human rights commissions and other relevant agencies.
 - A complaints ‘pathway’ for students to use should be developed if the Ombudsman is established, to ensure complaints are made to the most appropriate agency.
 - Clear communication of the role of the Ombudsman should be a priority, to ensure:
 - Absolute clarity for students as to the appropriate complaints pathway.
 - Clear expectation setting, so that individuals are aware of what the Ombudsman can and cannot do for them. This is vital to avoid exacerbating trauma and unfulfilled expectations.
 - Great care should be taken to safeguard academic freedom from being curbed by the Ombudsman.

UNSW is deeply committed to ensuring the safety and security of UNSW’s students and staff, including preventing gender-based violence. All forms of violence are unacceptable. We aim to ensure that all our students enjoy a positive, safe, rewarding experience at our university and on our campuses, and share the vision of government to eliminate sexual harm on Australian university campuses, and within the wider community, within one generation. We look forward to working with government to achieve this important goal.

We support the principles that underpin the Draft Action Plan, and the recognition that higher education providers can and must play a unique role in driving change. We also welcome the flexibility in the Draft Action Plan to allow each higher education provider to focus on their communities, while also supporting sector-wide and national efforts to eliminate gender-based violence.

The approach taken at UNSW is set out in our *UNSW Gendered Violence Strategy and Action Plan 2022-2025*, developed with the Gendered Violence Research Network¹ and our students and staff, and launched in 2022. The Plan, titled *Stop. Empower. Support.* seeks to:

- **Stop** gendered violence on our campuses through prevention and education.
- **Empower** our people to create a safe and respectful community by calling out inappropriate behaviour where it is safe to do so, and with the expectation that students and staff model respectful behaviour.

¹ See <https://www.unsw.edu.au/arts-design-architecture/our-research/research-centres-institutes/research-networks-clusters-labs/gendered-violence-research-network>

- **Support** our students and staff to raise their concerns, report incidents, and seek support when they need it.²

Some other recent actions taken to tackle sexual harm on campus include:

- Taking action to improve transparency in preventing and responding to reports of gendered violence. We were the first university in Australia to publish an annual report on gendered violence in 2021.³
 - UNSW has a Gendered Violence Portal which provides members of our community and the public with a platform to report incidents and access support. In the first half of 2023, we received a significant increase in reports to the Gendered Violence Portal with 91 reports made between January and June 2023. An increase in reports in the short term is a positive sign that suggests growing awareness and confidence in using the Portal.
- Together with all 39 Australian universities, UNSW signed the *Universities Australia Charter on Sexual Harm* that recognises the importance of continuing the work of preventing sexual harm and responding appropriately when reports of sexual harm are made.
- UNSW is advanced in developing the *UNSW Safer Communities Plan* for 2024 that will encompass Gendered Violence, Respect at Work, and psychosocial risk centred on prevention, early intervention, and response.

While we support the objective of the actions set out in the Draft Action Plan, we do have some concerns about the proposed establishment of a new National Student Ombudsman, insofar as its proposed powers extend well beyond addressing gender-based violence, and risk duplicating existing mechanisms to handle student complaints in some jurisdictions.

Consultation questions – Draft Action Plan

1. *What do you see as the opportunities or challenges to implementing the proposed whole of institution approach?*

UNSW is strongly supportive of a whole of institution approach to preventing gender-based violence, reflecting our commitment to making UNSW a safer place for all. Our *Gendered Violence Strategy* was co-designed with students and staff and launched in mid-2022. Consultation with the UNSW community clarified our vision to *Stop. Empower. Support*. The Strategy articulates our commitment as a university to do more to prevent and respond to gendered violence and ensures that work is undertaken in a coordinated, whole-of-organisation approach.

UNSW is advanced in releasing the *UNSW Safer Communities Plan* for 2024 that will encompass gender-based violence, respect at work, and psychosocial risk centred on prevention, early intervention, and response.

To empower members of the UNSW community to raise concerns and identify gender-based violence early, UNSW provides online reporting, including anonymous reporting of gender-based violence for all members of our community – students, staff, alumni, contractors, and general members of the public – through one reporting portal. The UNSW Gendered Violence Reporting Portal may be used to report incidents that are not recent, and for incidents that have also happened off-campus to assist those who have experienced gendered violence with referrals and information.

² See [UNSW Gendered Violence Strategy and Action Plan 2022-2025](#), p. 7

³ See [UNSW Annual Report Gendered Violence Prevention and Response page](#).

2. Are there additional considerations a new National Higher Education Code to Prevent and Respond to Gender-based Violence could include?

UNSW welcomes the focus of the *National Higher Education Code to Prevent and Respond to Gender-based Violence* (the Code) on embedding evidence-based primary prevention activities and respectful relationship education. Creating a culture of respect where everyone feels safe and respectful behaviours become the norm is key to ending gendered violence.

UNSW also strongly supports the inclusion of whole-of-institution data collection and transparent reporting. UNSW was Australia's first tertiary education provider to publicly release its annual report on gender-based violence⁴. These reports include messages from the university leadership – represented by the Vice-Chancellor – and student leaders, showing the importance the entire UNSW community places on working together to preventing and responding to reports of gendered violence.

These annual reports do not just provide statistics on reports of sexual misconduct and gendered violence, they also convey insights into education, communication, and cultural change in the UNSW community. This includes a focus on consent and cultural change, with, for example, the UNSW's SEXtember festival⁵ promoting sex-positive conversations and normalising conversations around healthy relationships, consent, sex, and sexual health.

The draft Action Plan could be further strengthened with additional clarity around how procedural fairness will be incorporated into the Code, including how the Code and the criminal justice system will intersect when gendered violence reports are made.

3. How could we ensure the Code addresses the needs of different students and staff cohorts (e.g., LGBTQIA+, international, Indigenous and Torres Strait Islander, people living with disability and higher degree research students)?

Responses to gendered violence are most effective when they are 'person centred' and sensitive to a range of gendered experiences and needs. As outlined in UNSW's strategy, *Stop. Empower. Support*, gendered violence can be experienced by a person of any gender, and gender diverse and LGBTIQ+ students and staff may be specifically targeted because of their perceived and/or real gender and sexual orientation. Because of this, there is a need for targeted prevention and awareness campaigns that focus on high risk populations, and UNSW encourages the Department to focus on co-design and collaboration with different student and staff cohorts when drafting the Code.

To create an inclusive Code for students and staff of all abilities and from all backgrounds, UNSW suggests focusing on removing any barriers high risk populations may face that limit their ability to contribute to drafting the Code and being empowered to use the Code once it is operational. An example of how a welcoming and inclusive experience for people of all abilities can be created is UNSW's *Disability Inclusion Action Plan*⁶ that encourages full, effective access and participation across the University.

⁴ See <https://www.unsw.edu.au/planning-assurance/safety/safer-communities/resources/annual-report>.

⁵ See <https://www.student.unsw.edu.au/sextember>

⁶ See <https://www.edi.unsw.edu.au/diversity-inclusion/strategies-policies/disability-inclusion-action-plan>

4. How could student accommodation and higher education providers effectively partner to prevent gender-based violence and improve how they support victim-survivors?

UNSW owned, operated, and affiliated student accommodation is recognised as a high risk area for gendered violence, and engaging with on-campus accommodation is a key part of UNSW's Strategy *Stop. Empower. Support*. Consequently, we are committed to supporting UNSW owned, operated, or affiliated accommodation as best we can. UNSW owned and operated Colleges have also established a new Residential Wellbeing Officer position. Mandatory training includes:

- Staff Sexual Misconduct Awareness and Responsible Employee Modules are mandatory for all staff and the Sexual Misconduct Awareness module is being developed and broadened to include all forms of gendered violence.
- A Student Module on Preventing Gendered Violence at UNSW was rolled out to new students in 2023 and utilised by some of the Affiliated colleges as part of their induction to new residents.
- UNSW owned and operated Colleges successfully piloted a consent education module and in-person workshop for new and returning residents.

Consultation questions – National Student Ombudsman

1. A proposed National Student Ombudsman is described in Action One of the Action Plan on Addressing Gender-based Violence in Higher Education. Are there additional considerations that would be critical to the role of a National Student Ombudsman?

The stated purpose of the proposed National Student Ombudsman (Ombudsman) is to provide higher education students with an effective, trauma-informed complaints mechanism to use when they are not satisfied by their provider's response.

UNSW is very supportive of making the complaints process easy to access, trauma-informed and transparent for students. However, it is important to avoid duplication between different agencies governing higher education providers, including those with existing jurisdiction to receive and consider complaints about providers. Duplication of complaint avenues for students risks leading to confusion facing prospective complainants as to where a complaint is best directed, and in the eventuality that students make complaints to multiple agencies, could potentially lead to inconsistent outcomes, delays in response time and inaccurate data. Furthermore, duplicating some existing functions also risks unnecessary diversion of resources that could be better spent on programs that prevent incidents that cause harm from occurring in the first place.

Stakeholder expectations will also need to be managed very carefully. Often students are unaware of the purpose of an Ombudsman's office including its powers and responsibilities. For example, any Ombudsman would usually only have the power of enquiry and the right to make recommendations; however, a student may be of the view that the Ombudsman can overturn a decision made by the University. In the context of gendered violence, this misunderstanding of each office's role may cause students to retraumatise themselves, in telling their story again to the National Student Ombudsman who may not be able to achieve the appropriate remedies the student is after.

UNSW would also like to note that the proposed scope of the Ombudsman extends beyond addressing gender-based violence to cover all aspects of student welfare, with the only explicit exception in the draft action plan being academic decision-making by providers. Noting the far-reaching remit of the

proposed Ombudsman, UNSW would therefore suggest the Department of Education undertake further examination of the following:

- **Undertake gap analysis by mapping the full current complaints cycle**⁷ for each Australian jurisdiction for the topics that the proposed Ombudsman would have carriage of, notably student safety, welfare, course administration, HECS administration, reasonable adjustments for students, and other matters. This would then enable a thorough gap analysis for each topic, ensuring the Ombudsman would not duplicate or supersede existing complaint mechanisms.
- **Delineation of the scope of the Ombudsman** compared to existing bodies to avoid duplication and unclear jurisdiction. This would include the various Commonwealth and State Ombudsmen, TEQSA, ASQA, the AAT, human rights commissions and other relevant government departments, such as the Department of Education, and agencies.
- **Clarification of the terms of reference** for the proposed Ombudsman, including the powers of the Ombudsman to investigate adherence of education providers to their policies and processes, and recommendation on how to resolve complaints. This should include what the Ombudsman can and cannot investigate and recommend.
- **Description of the Ombudsman complaints pathway** students should use if they choose to escalate a complaint to the Ombudsman⁸.
- **Ensuring academic freedom** is not curbed by the Ombudsman, with the Ombudsman being a complaints mechanism of last resort for student welfare complaints.

2. If a National Student Ombudsman is developed, it is proposed to be centred on student voices and needs, and be effective, accessible, and transparent through the full complaints cycle. How can we ensure the Ombudsman is student-centric?

A proposed Ombudsman will need to ensure that its complaints processes and best-practice initiatives to tackle gender-based violence are meaningful and useful for students, and that they are communicated in a transparent and easily accessible way. Below are several suggestions on how the Ombudsman could be student-centric, drawing on insights from UNSW strategic plans such as the *Access and Equity (Students) Strategy 2020-2025*⁹.

UNSW considers the following elements critical to the proposed Ombudsman best being able to support students in their complaints journey and in providing best practice guidance to education providers:

- **Visibility:** The proposed Ombudsman will need to be visible to students and provide easy to follow explanations for students to guide their journey through the complaints process, including when students should seek resolution directly through their education provider and when the Ombudsman is the right avenue for their complaint. These guidelines should be co-designed with a broad representation of student cohorts.
- **Evidence-based:** The Ombudsman should monitor and measure its activities and engage with research centres that have subject matter expertise in gender-based violence such as UNSW's Gendered Violence Research Network. This will enhance its ability to continuously refine its approach and share best practice guidance relating to complaints handling and student experience with providers.

⁷ The current UNSW complaints policy and appeals process can be found here:

<https://www.unsw.edu.au/content/dam/pdfs/governance/policy/2022-01-policies/studentcomplaintprocedure.pdf>

⁸ • For gender-based violence complaints, it is also important to note that some students may involve the police and may go to court, meaning that internal reporting mechanisms from UNSW would be suspended, to avoid compromising a police investigation or prosecution.

⁹ See https://www.edi.unsw.edu.au/sites/default/files/documents/2020%20Strategy%20FINAL_0.pdf

- **Avoid over-regulation:** There is a real risk that over-regulation will unintentionally result in education providers focusing more on compliance than addressing the underlying issue of preventing gender-based violence on campus. UNSW already dedicates significant resources to regulatory compliance and reporting. Any initiatives on student safety such as those outlined in the proposed Action Plan should be developed in partnership with the sector, and in partnership with students.
- **Appropriate staffing:** The National Student's Ombudsman's Office will need significant resources to review complex matters where students have been dissatisfied with the institutional response. For example, UNSW routinely handles matters with thousands of documents, which can include highly technical material. In order to adequately review these matters, the proposed Ombudsman will require significant resources to employ enough staff with an appropriate mix of skills from both within the higher education sector and other areas. A list of advisors should also be created for the Ombudsman's Office to call on in times of need.

3. How should the Ombudsman consider the needs of different student cohorts (e.g. LGBTQIA+, international, Indigenous and Torres Strait Islander, people living with disability and higher degree research students)?

Collaboration and Co-Design

There are two aspects to this question:

- 1) Considering the needs of students when designing the powers and functions of the proposed Ombudsman.
- 2) Considering the needs of students once the Ombudsman is operational.

Having access to the necessary knowledge and expertise during the design process and being able to manage the diverse needs of different student cohorts once the Ombudsman is operational with sensitivity and confidentiality will be critical. Both aspects will require co-design of the Ombudsman with different student cohorts, including student representative and advocacy organisations, and ongoing collaboration with them once it is operational. UNSW's Disability Innovation Institute has developed the document *Doing Research Inclusively: Guidelines for Co-Producing Research with People with Disability*¹⁰, with key principles¹¹ transferable to the design of the Ombudsman:

- **Power-sharing.** Power differentials need to be acknowledged and actively managed.
- **Diversity.** Different perspectives and skill sets are brought together in co-production.
- **Accessibility.** Organisations and individuals must address barriers that may prevent or discourage involvement in co-production.
- **Reciprocity.** Everybody should benefit from co-producing research.
- **Transparency.** Co-production should be built on a shared understanding of the context, goals, scope and process, each person's role, and of potential outcomes.

Nuanced and diverse considerations

University communities are diverse, with gendered violence being experienced differently by different student cohorts. Prevention of and responses to gendered violence need to be inclusive, mindful of the

¹⁰ See [https://www.disabilityinnovation.unsw.edu.au/sites/default/files/documents/DIIU%20Doing%20Research%20Inclusively-Guidelines%20\(17%20pages\).pdf](https://www.disabilityinnovation.unsw.edu.au/sites/default/files/documents/DIIU%20Doing%20Research%20Inclusively-Guidelines%20(17%20pages).pdf)

¹¹ To see the full Principles of Co-Production, see *Doing Research Inclusively: Guidelines for Co-Producing Research with People with Disability*, p. 8-9.

unique nature of individual experience and culturally safe. To achieve this, UNSW's *Gendered Violence Strategy and Action Plan 2022-2025* is using an intersectional lens that considers¹²:

- The complexity of every person's positionality
- How this can affect the way they experience gendered violence
- How lived experience differs
- How to embed cultural safety in all our work

UNSW suggests that the Ombudsman considers the inclusion of an intersectional lens that helps to uncover barriers faced by students wishing to disclose and seek help, as well as ensure outcomes consider the unique experiences of diverse student cohorts.

4. Are there any other issues that should be considered in exploring the role and scope of a National Student Ombudsman?

The NSW Ombudsman's guide *Complaint Handling at Universities: Australasian Best Practice Guidelines* (2015)¹³ states, "Universities are unique institutions. The complaints that will inevitably arise in this environment require correspondingly unique procedures."¹⁴ This unique environment of higher education regulation requires trust and role clarity between higher education providers and regulatory bodies. UNSW would therefore like to highlight the risk of confusion of remit and powers of the Ombudsman with the proposed broad scope of its capabilities that go beyond addressing gender-based violence complaints.

Clarification of administration and powers of the Ombudsman

Noting the complex legislative environment that establishes universities in Australia, the next round of consultations on the Ombudsman should include clear guidance on how the Ombudsman would obtain its powers and how it would interact with existing regulatory bodies such as TEQSA. It should also include a definition of the proposed Ombudsman's powers, including the remit of its investigative role and dispute resolution powers. If established, the Ombudsman will then need to be resourced appropriately to ensure it has the capability to address complaints lodged within a reasonable timeframe.

Conclusion

Thank you for the opportunity to comment on the *Draft Action Plan: Addressing gender-based violence in higher education*. We stand committed to working with government to achieve the shared goal of eliminating sexual harm on Australian university campuses, and within the wider community, within one generation.

The issues raised in this submission are critical to ensuring students have access to 'best practice' processes that prioritise safety, support trauma-informed practice and centre the voices and needs of victim-survivors when gender-based violence occurs in a higher education setting.

Should you wish to discuss any issue raised in this submission, please do not hesitate to contact our Head of Government Relations, Mr Robin Schuck, on 0411 124 258 or r.schuck@unsw.edu.au.

¹² See page 16-17, <https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/planning-assurance/gendered-violence/2023-03-gv-steer-co/2023-03-UNSW-gendered-violence-strategy-action-plan.pdf.coredownload.pdf>

¹³ https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0017/126044/University-Complaints-Handling-Guideline-Jan-2015-NSW-web.pdf

¹⁴ See page 5, https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0017/126044/University-Complaints-Handling-Guideline-Jan-2015-NSW-web.pdf