



Australian Government
Department of Education

DRAFT PROPOSAL: Addressing gender-based violence in higher education

DRAFT Action Plan

DRAFT FOR CONSULTATION





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Contents

Context.....	4
Principles.....	5
Actions	6
Appendix A Whole-of-institution approach to prevent gender-based violence	10
Appendix B Definitions.....	12

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Context

The *National Plan to End Violence against Women and Children 2022–2032* lays out the shared vision of Australian governments to end gender-based violence in one generation. It is the blueprint for the next 10 years setting out the work needing to be undertaken by all governments and all sectors across the country – including higher education providers and student accommodation providers – to achieve this vision.

Students and staff in higher education deserve to be and feel safe. Over the last several years, evidence has shown that sexual assault and sexual harassment continue to occur in university communities at significant rates. Along with the negative effects on victim-survivors' mental health and wellbeing, this violence can also negatively affect students' educational outcomes: they may be less able to attend or participate in classes and in some cases, will withdraw from their study. This directly challenges the core mission of universities and the education they provide.

While there are examples of good practice, and some students receive appropriate and high-quality support, other students and staff victim-survivors have not received the support and care they need and deserve from providers. Some perpetrators have not adequately been held to account.

All violence, regardless of who uses it and who experiences it, is unacceptable. But sexual assault and sexual harassment – which are nationally and internationally recognised as forms of gender-based violence – are not experienced equally by people in the community: it is overwhelmingly perpetrated by men against women and LGBTIQ+ people.ⁱ In universities, First Nations students, students living with disability, LGBTIQ+ students, non-binary and transgender students experienced sexual assault and sexual harassment at significantly higher rates than others. The overwhelming majority of perpetrators of sexual violence were men.ⁱⁱ

Gender-based violence is deeply rooted in gender-based power inequalities, rigid gender norms and gender-based discrimination. To prevent violence against women and LGBTIQ+ people, these drivers must be acknowledged, addressed, and challenged. This Action Plan focuses on all forms of gender-based violence, including sexual violence. The higher education sector has a unique opportunity to drive social change at scale with 1.5 million students and over 130,000 staff. Many within the sector are already pursuing this opportunity and supporting students within their communities. Institutions have strong connections to local and international communities and are driven by the pursuit of knowledge, evidence and change through education. Institutions, in partnership with students, staff, their communities and subject matter experts can and must do more to prevent gender-based violence.

Multi-layered accountability is central to this action plan:

Governments – Australian, state and territory governments are committed to ending gender-based violence in all parts of the community. Governments are accountable for overseeing this action plan and its successful delivery.

Providers – (higher education institutions and student accommodation providers) – are accountable for whole-of-organisation performance against safety and wellbeing requirements related to students and staff who have experienced this violence, as well as community expectations to be established under relevant regulatory measures and informed by the evidence base. Providers are also accountable for:

- promoting student and staff safety
- initiating and embedding prevention measures across all settings
- acting quickly to protect students and staff safety when disclosures and reports are made
- protecting the legal rights and interests of all students
- ensuring reporting pathways and processes and support services are centred on the needs and safety of victim-survivors, and
- ensuring appropriate sanctions are imposed on perpetrators.

Communities – university, student accommodation and other higher education communities will work towards a higher education system free from violence. Students, staff, student and staff organisations and other relevant stakeholders are part of these communities and have a major role to play in the design, implementation and embedding of any work on gender-based violence.

This Action Plan puts the voices and needs of victim-survivors at the centre. It is supported by the actions of stakeholders listed above. It defines the responsibilities of stakeholders who are committed to a country where all people live free from fear and violence and are safe at home, at work, in study, in the community and online.

Principles

The principles that underpin this Action Plan reflect and build on those of the *National Plan to End Violence against Women and Children 2022–2032*.

The Action Plan principles also recognise the unique role that higher education providers can and must play in driving broader social change, as well as the distinct responsibilities they hold in relation to creating safe study, work, social and living environments.

The principles that will guide implementation and ongoing accountability arrangements relevant to this Action Plan are:

1. There is a collective commitment from the higher education sector to lead long-term social and cultural change to prevent gender-based violence.
2. Providers will implement change in their own communities and support positive change in the wider community.
3. Work to address gender-based violence will be co-designed with students, staff, experts and other relevant local communities.
4. Providers will take an inclusive and intersectional approach to implementation.
5. Design and implementation will be trauma-informed, centring the voices and needs of victim-survivors.
6. Action will reflect and respond to existing and emerging evidence, using the best research and contributing to new knowledge about what works.

7. Governments and individual providers will be transparent.
8. Governments and providers will be accountable for delivering change.

Actions

1. **In consultation with the states and territories, the Commonwealth should establish a new National Student Ombudsman with investigative and dispute resolution powers** to ensure domestic and international higher education students have an effective, trauma-informed complaints mechanism to use when they are not satisfied by their provider's response.
 - The Ombudsman should be centred on student voices and needs, and be effective, accessible, and transparent through the full complaints cycle. In designing the Ombudsman, consideration should be given to ensuring it can:
 - play a role in promoting best practice relating to complaints handling and student experience
 - have the power to handle student complaints about their providers' policies and processes, including on student safety, welfare, course administration, HECS administration, reasonable adjustments for students, and other matters
 - have authority to consider whether the actions taken by providers are wrong, unjust, unlawful, discriminatory or unfair, and whether they meet the expectations of providers established through regulation
 - have the ability to investigate if a provider is acting unreasonably or there are unreasonable delays in responding to a student's complaint, or where the provider is otherwise failing to follow its own policies or meet regulatory expectations
 - have the power to recommend that the Vice-Chancellor, Chief Executive or leader of a provider takes specific administrative steps to resolve complaints, such as:
 - refunding or re-crediting fees, and/or
 - making changes to provider policies, practices and processes
 - offer a restorative engagement process between student and provider where appropriate
 - provide an annual report to Parliament, through the Minister, that will report on numbers and types of complaints, the actions of providers in response to recommendations, and wider opportunities to improve student experience
 - can share information with, and receive information from, relevant regulators to identify and respond to systemic risk, provide the basis for further compliance action if necessary, and ensure accountability
 - be the primary escalated complaints authority for students in relation to their providers, with jurisdictions agreeing in principle to reflect the Ombudsman in their own arrangements and refer students with complaints where relevant
 - have no role in relation to academic decision-making by providers.
2. **Providers should embed a whole-of-institution approach to prevent gender-based violence in their organisations, led by their most senior executives and governance boards.**
 - All providers should explicitly commit to, resource, and embed a whole-of-institution approach to prevent gender-based violence that reflects the above principles. This approach should address:
 - **Students.** Providers should ensure all student-related policies, practices, processes and services – including university-affiliated student associations, clubs and

societies – promote gender equality, respect, diversity and inclusion. Respectful relationships education should be a core tenet of student-facing work. Particular attention should be given to preventing gender-based violence in the context of staff and student power dynamics including supervision of higher degree research students.

- **Staff.** Providers should ensure that at a minimum they are meeting their legal obligations under the *Fair Work Act*, *Racial Discrimination Act* and the *Sex Discrimination Act* – including the positive duty to prevent sexual harassment – and work, health and safety legislation as part of preventing gender-based violence. Providers should examine how their workplace culture, policies and practices, including recruitment and promotion, and organisational governance promote gender equality, respect, diversity and inclusion. Particular attention should be given to ensuring that all staff have the ability to safely raise reports, including those in casual or contractual employment arrangements.
- **Teaching and learning.** Providers should ensure teaching and learning environments – physical and online – are equitable, accessible, respectful and safe. This includes examining curriculum for biases and building the capacity of academic and teaching staff to promote gender equality, respect, diversity and inclusion in how, and what, they teach.
- **Business and operations.** Providers should amplify their prevention work into the broader community to model and promote their leadership in, and commitment to, gender equality, respect, diversity and inclusion. This includes stakeholders such as research partners, industry and community partners and organisations, and other core partners.
- **Research and research pathways.** Providers should address unconscious and structural biases in research funding applications and allocations, research training, research programs and retention strategies across of levels of academia.
- A whole-of-institution approach must first be supported by trauma-informed **response** systems to ensure safety and support for students and staff in response to any type of violence. This includes responding to disclosures, reports and disciplinary processes; ongoing support and safety planning mechanisms, including while disciplinary processes are underway; and expert-led response training for staff and students. It also includes the provision of specific expert-led training for staff on responding to disclosures and reports about gender-based violence, including sexual harassment.

3. Strengthen provider accountability for systemic issues relating to gender-based violence in consultation with the states, territories and other stakeholders. This should take the form of:

- The Commonwealth Minister for Education tabling in Parliament, following consultation, a new *National Higher Education Code to Prevent and Respond to Gender-based Violence* (National Code) that will set requirements for embedding the whole-of-institution approach, with rules covering:
 - embedding evidence-based primary prevention activities and respectful relationships education
 - critical incident management, reporting and reports handling, including the prioritisation of student and staff safety and agency in these processes
 - reflection of the whole-of-institution approach in providers' strategic documents and governance arrangements
 - requirements to explicitly consider and address the needs of different student and staff cohorts, such as LGBTIQ+, international, First Nations, people living with disability and higher degree research students
 - provision of student support and academic adjustments

- whole-of-institutional data collection and transparent reporting
 - engagement with sector-wide opportunities for improvements in performance, transparency and accountability.
 - Implementation arrangements would build capability of providers to prevent and respond to gender-based violence, share best practice and emerging evidence, and undertake targeted compliance activities. This should include public reporting on progress through annual reporting through the Commonwealth Minister for Education to Parliament.
 - The new arrangements should provide new comparable, national and public reporting on data, including prevalence, disclosures and reports, student/staff awareness of and satisfaction with reporting pathways; provider performance; and overall sector performance, including through annual reporting through the Commonwealth Minister for Education to Parliament.
 - Part of these new arrangements would include supporting and enabling partnerships with research experts, networks and organisations – such as Australia’s National Research Organisation for Women’s Safety – to ensure work undertaken is informed by the latest and evolving evidence and that evidence is widely available and understood in the higher education sector.
 - Implementation will be led by a new expert unit, initially within the Department of Education.
 - The new National Code, and other arrangements, should be implemented in a way that reflects the provider’s scale, the student and staff profile of the provider’s community and that minimises overlap with other regulatory arrangements, including the Higher Education Threshold Standards, the new positive duty requirements, the Support for Students policy requirements, and reporting to the Workplace Gender Equality Agency.
- 4. Enhance the oversight, standards and accountability of student accommodation providers so that students are safe, and feel safe, where they live.**
- Student accommodation providers should meet those sections of the National Code that relate to their operations, ensuring consistency with universities and other higher education providers regarding gender-based violence prevention and response. The Government should consult the sector further on how best to achieve this policy objective.
 - As part of this, accommodation providers should also align their approach to gender-based violence prevention and response – including policies, practices and processes – to those universities whose students they house. This includes ensuring that a student is not required to tell multiple providers about a traumatic experience and that the student’s safety and support arrangements are integrated between education institutions and accommodation providers wherever possible.
- 5. Identify opportunities to ensure providers can prioritise the safety of victim-survivors in responding to disclosures and reports of gender-based violence, including through further work with states and territories on potential legislative/regulatory reform.**
- Work to date has identified important technical impediments to prioritising student safety and wellbeing that stem from existing legislative and governance frameworks, in particular an over-reliance on dated disciplinary processes. In addition, providers have found it difficult to hear and determine, in a trauma-informed and procedurally fair way, reports of gender-based violence that involve disputed factual allegations. To inform disciplinary processes, providers could consider the establishment of a panel of experts with the necessary

expertise, experience and powers to oversee processes in a way that is consistent with the new regulatory expectations and overarching legal requirements.

- Further work is required over coming months to explore the above and provide legal clarity and guidance for providers on how to respond to allegations of gender-based violence through contemporary processes that prioritise safety, support trauma-informed practice and centre the voices and needs of victim-survivors.

6. Demonstrate improvement across the sector through increased data transparency and scrutiny.

- As part of the National Code, providers should be required to regularly provide comparable data on disclosures, reports, student/staff awareness of and satisfaction with reporting pathways and processes, and disciplinary processes and outcomes relating to gender-based violence to the new unit, for annual reporting through the Commonwealth Minister for Education to Parliament
- To promote data integrity and comparability across the sector, common data definitions should be developed by the new unit to be used by providers in collection and reporting
- National student surveys should form a regular part of the agreed response and will be developed by the sector, in collaboration with Government to ensure consistency with other relevant surveys and enable comparisons over time.

7. Demonstrate an ongoing commitment to addressing gender-based violence through regular consultation, coordination and review of progress against the Action Plan.

- The Commonwealth Department of Education will coordinate between the Sex Discrimination Commissioner and other relevant bodies, such as the Commonwealth Department of Social Services and the Office for Women, and regulators such as Commonwealth, State and Territory Occupational Health and Safety agencies, the Fair Work Commission, the Australian Human Rights Commission and the Workplace Gender Equality Agency to ensure that providers are leading in their response to gender-based violence and engaging well with possible regulatory changes and processes
- Ongoing national student, victim-survivor and stakeholder engagement should occur during implementation of this Action Plan
- Education Ministers should continue to consider progress on implementation, as required, to ensure accountability.

Appendix A

Whole-of-institution approach to prevent gender-based violence

International and Australian research clearly demonstrates that gender inequality is a key driver of violence against women. But it is not the only, or most prominent, driver in every situation. Other forms of inequality and discrimination – such as racism, ableism and homophobia – intersect with people’s experiences of gender inequality and influence how they experience gender-based violence.

A whole-of-institution approach to preventing gender-based violence recognises that everyone has a role to play in creating a culture where rigid gender stereotypes are challenged, gender-based discrimination and other forms of discrimination are unacceptable and gender equality is actively promoted and modelled. Evidence shows that taking a whole-of-institution approach is the most effective way to drive lasting change. This approach requires time, resourcing, and ongoing leadership commitment.

A whole-of-institution approach must first be supported by best-practice, trauma-informed response systems to ensure safety and support for students and staff in response to any type of violence. This includes responding to disclosures, reports and reporting processes, ongoing support and safety planning mechanisms, and response training for staff and students. Effective and appropriate response systems are the foundation of primary prevention work – but focussing on response systems alone will not drive the cultural change that is needed.

A whole-of-institution approach should:

- Address the drivers of gender-based violence, including gender inequality and other forms of intersecting discrimination and disadvantage
- Align to and be complemented by the wider policy, regulatory and legislative environments that will support and increase the effectiveness of this work, including:
 - a. Positive duty legislation, occupational health and safety legislation and sex discrimination legislation at both the federal and jurisdictional level, and Fair Work legislation and regulatory requirements
 - b. The *National Plan to End Violence against Women and their Children 2022–2032* and the Aboriginal and Torres Strait Islander Action Plan to End Violence Against Women and their children, and other relevant frameworks and legislation
- Involve assessment of policies and processes relating to gender equality and gender-based violence
- Involve assessment of attitudes, norms and culture within the institution, drawing from qualitative and quantitative data
- Involve students, staff and stakeholders across all levels of the institution’s community, with particular consideration to ensuring the voices and needs of students and staff are centred in decision-making
- Engage in workforce development to build the capacity of staff and students – including victim -survivors – across the institution to effectively contribute to prevention and gender equality

- Monitor and publicly report on progress and gaps to demonstrate the principles of transparency and accountability
- Be embedded as part of sustainable and ongoing institution-wide practice.

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Appendix B

Definitions

Complaint: in the context of this Action Plan, a complaint refers to a person lodging a grievance with the National Student Ombudsman concerning their provider's handling of their report of gender-based violence.

Disclosure: refers to the sharing of information about an experience of gender-based violence with another person. Disclosures can be made to anyone and are usually made to a person who is known and trusted. A person who discloses may not want to make a formal report to their provider or to police, and may instead be looking for information about resources and support.

Gender-based violence: refers to violence that is used against someone because of their gender. It describes violence rooted in gender-based power inequalities, rigid gender norms and gender-based discrimination. While people of all genders can experience gender-based violence, the term is most often used to describe violence against women and girls, because most gender-based violence is perpetrated by men against women, because they are women. Violence can be physical, sexual, emotional, psychological, social, cultural, spiritual, financial and technology-facilitated abuse (including image-based abuse), and stalking. In the context of this Action Plan, we use the term gender-based violence to include violence perpetrated against LGBTIQ+ people. We recognise there are shared drivers of gender-based violence and violence against LGBTIQ+ people, but that violence against the latter is also driven by rigid and hierarchical ideas about sex, gender and sexuality.

Provider: in the context of this Action Plan, provider refers to all institutions registered as a higher education provider and delivering higher education to students (universities and institutes of higher education) as well as student accommodation providers which include university colleges, halls and purpose-built student accommodation.

Report: in the context of this Action Plan, a report refers to a student or staff member providing a formal account or statement about gender-based violence to a person or provider that has the authority to take action. Providers use complaint management frameworks to progress reports.

Whole-of-institution approach: see Appendix A.

ⁱ Australian Bureau of Statistics, *Personal Safety Survey 2021–22*, Australian Government, 2023; Australian Human Rights Commission (AHRC), *Time for Respect: Fifth national survey on sexual harassment in Australian workplaces*, AHRC, 2022; Social Research Centre (SRC), *National Student Safety Survey*, SRC, 2022; AHRC, *Change the Course: National report on sexual assault and sexual harassment at Australian universities*, AHRC, 2017.

ⁱⁱ Social Research Centre (SRC), *National Student Safety Survey*, SRC, 2022.