



Australian Government
Department of Education

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

Issues Paper





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The document must be attributed as the National Higher Education Code to Prevent and Respond to Gender-based Violence Issues Paper.

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Introduction

Gender-based violence is at epidemic proportions in Australia. Over their lifetime, one in 3 women experience physical violence and one in 5 women experience sexual violence.¹ Most perpetrators of this violence are men.² All Australian governments share a vision to end gender-based violence in one generation, through the *National Plan to End Violence against Women and Children 2022–2032* (National Plan).

Over the last several years evidence has shown that gender-based violence – specifically sexual violence – continues to occur in higher education communities at significant rates. Many students and staff don't know where to seek support or make a formal complaint to their higher education provider, and those that do are often dissatisfied with the process.

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). This Action Plan builds on the National Plan and aims to create higher education communities free from gender-based violence.

The Action Plan makes it clear that the higher education sector has a unique opportunity to drive social change at scale, with over 1.5 million students and 130,000 staff and internationally recognised research expertise. It also recognises the distinct responsibilities higher education providers hold in creating safe study, work, social and living environments.

The Action Plan increases the accountability of the higher education sector and the student accommodation sector for protecting and promoting the safety of its students and staff through 7 actions:

1. establishment of a National Student Ombudsman as a new primary escalated complaints mechanism for all higher education students
2. a requirement for all higher education providers to embed a whole-of-organisation approach to prevent and respond to gender-based violence
3. introduction of a National Higher Education Code to Prevent and Respond to Gender-based Violence (National Code) as a new form of regulation
4. enhanced oversight and accountability of standalone student accommodation providers
5. work to identify opportunities to ensure legislation, policies and regulations prioritise victim-survivor safety
6. increased data transparency and scrutiny to demonstrate improvement by higher education providers, student accommodation providers and governments
7. regular consultation, coordination and review of progress against the Action Plan.

The Australian Government has commenced immediate implementation of the Action Plan.

The National Code will form part of the higher education regulatory framework. It will ensure higher education providers and student accommodation providers are accountable for addressing gender-based violence so they can provide safe and thriving education, work and residential environments.

¹ Australian Bureau of Statistics (ABS), [Personal Safety, Australia](#), ABS website, 2021–22.

² ABS, [Personal Safety Australia](#).

This paper seeks views on the details of the proposed Standards of the National Code and its regulatory framework.

Feedback is sought to ensure the National Code will have the desired impact within the higher education sector and the wider community to drive the change required. The Department invites responses to the consultation questions provided at the end of this paper.

Context

The impact of gender-based violence on higher education students and staff

A series of national independent reports over the last decade has highlighted the persistence of gender-based violence in universities and student accommodation. Many of the reports make recommendations to strengthen the accountability of providers in addressing the prevalence of this violence and providing better support for victim-survivors (see [Appendix A](#)).

Recent data shows that since starting their studies, one in 6 university students has been sexually harassed and one in 20 has been sexually assaulted.³ Women students, First Nations students, students with disability, LGBTIQ+ students, non-binary students and transgender students experience sexual assault and sexual harassment at higher rates than others.⁴ Most perpetrators of this violence are men.⁵ Survey data also show that one in 3 higher education staff reported personal experiences of sexual harassment, and women and non-binary staff were more likely to experience sexual harassment than men.⁶

Sexual assault and sexual harassment are recognised internationally as forms of gender-based violence because it is most commonly behaviour that is used against someone because of their gender, gender expression or sexual orientation.

People of all genders experience gender-based violence, however, the term is most often used to describe violence against women and girls because most gender-based violence is perpetrated by men against women. The Action Plan also uses the term gender-based violence to describe violence against LGBTIQ+ people.

For the purposes of the National Code, it is proposed gender-based violence is defined as any form of physical or non-physical violence or abuse by a person that is underpinned by gender-based power inequalities, rigid gender norms and gender-based discrimination that results in, or is likely to result in, harm, coercion, control, fear or deprivation of liberty and autonomy.

Gender-based violence can be constituted by a single act, omission or circumstance or a combination or pattern of acts, omissions or circumstances over a period of time.

³ Social Research Centre (SRC), [National Student Safety Survey](#), SRC, 2022.

⁴ SRC, [National Student Safety Survey](#).

⁵ SRC, [National Student Safety Survey](#).

⁶ National Tertiary Education Union (NTEU), [Sexual harassment in the workplace](#), NTEU, 2023.

Gender-based violence can be physical, verbal, sexual, emotional or psychological, socio-cultural, spiritual, financial or economic. It can be facilitated through technology, such as social media, apps and personal devices.

Whether perpetrated in person or online, gender-based violence can have negative effects on victim-survivors' mental health, physical health and wellbeing. For students, gender-based violence can also negatively affect their ability to remain in study. Trauma can make them less able to attend and participate in classes. In some cases, they withdraw from their study. For staff, the effects of gender-based violence can result in reduced performance and absenteeism, representing a barrier to career progression and advancement. Victim-survivors can carry the negative effects of this violence throughout their lives, so it is critical that higher education providers and student accommodation providers support victim-survivors' recovery and healing and work to prevent gender-based violence.

Safety and wellbeing in the current higher education landscape

Higher education providers have existing obligations to provide safe learning and work environments. Regarding the safety and support of students, providers must meet the Higher Education Threshold Standards 2021 (Threshold Standards), the Education Services for Overseas Students National Code 2018 (ESOS National Code) and the new Support for Students Policy. Regarding the safety of staff, providers must provide a safe working environment under various work health and safety laws and prevent sexual discrimination, sexual harassment and sex-based harassment as part of the positive duty obligations under the *Sex Discrimination Act 1984*.

Over the last several years, some providers have moved beyond minimum requirements and taken active steps to address gender-based violence. Individual universities have published reports on their performance, including relevant data and progress of actions, and implemented consent education for students. There is also guidance available to the sector to support best practice such as the Tertiary Education Quality and Standards Agency's Guidance Note on wellbeing and safety, Universities Australia's Sexual Harm Response Guidelines and the Australian Human Rights Commission's Guidelines for Complying with the Positive Duty.

Collectively these materials provide some level of specific guidance for providers in addressing gender-based violence, but they do not constitute the comprehensive approach that is needed to drive substantial change (see [Appendix B](#) for further detail). As a result, progress across the sector is mixed.

The lack of a specific approach to address gender-based violence is also a significant risk within student accommodation settings. While some student accommodation providers provide pastoral care and are addressing this violence in their residences, there are no national regulations, requirements or consistent standards for providers. Many student accommodation services seek to work with their relevant higher education provider, but there are cases where lack of collaboration has negatively affected victim-survivors.

Consultations on the development of the Action Plan reinforced these challenges and highlighted a range of issues contributing to poor outcomes for students and staff, requiring dedicated regulatory intervention.

The National Code will set clear requirements for higher education providers and student accommodation providers to address gender-based violence. It will strengthen providers' performance beyond the minimum requirements of the Threshold Standards and operationalise compliance with other legal and regulatory frameworks such as the positive duty. This will increase public confidence in the regulation and accountability of providers in addressing this issue and ensure students and staff are safe and feel safe regardless of where they study, work or live.

Application of the National Code

All higher education providers registered by the Tertiary Education Quality and Standards Agency (TEQSA) will be required to comply with the National Code. The National Code will apply to all aspects of the provider's organisation, including all campuses and student accommodation owned and/or operated by the provider. Providers will be able to implement the National Code in a way that accounts for their scale, student/staff profiles, onshore and offshore campus locations and environments while still ensuring full compliance.

Standalone student accommodation providers will also be required to meet the National Code and the Australian Government is exploring options for a new regulatory framework for these providers. Once established, standalone accommodation providers will be required to meet standards of the National Code. In the interim, it is expected that these providers will work to meet the National Code and collaborate with the relevant higher education provider/s to align as far as possible their response policies, processes and practices.

Proposed approach of the National Code

The National Code will support a whole-of-organisation approach to prevent and respond to gender-based violence. As described in the Action Plan, this will require providers to undertake work across all domains of their organisation, with a key focus on students, staff, teaching and learning, business and operations, and research and research pathways. It is only through this approach that changes in organisational culture, practices and service delivery can be achieved to drive institutional change.

The National Code will be informed by existing regulations and models that improve quality, safety and the prevention of gender-based violence and feedback raised during consultation on the Action Plan. These include:

- the *National Plan to End Violence against Women and Children 2022–2032* and Our Watch's *Change the Story* frameworks
- the Threshold Standards and ESOS National Code 2018 (including recent consultations)
- *Support for Students Policy Guidelines*
- *Guidelines for Complying with the Positive Duty under the Sex Discrimination Act 1984* (Cth)
- international regulations and activities, such as the UK's Office for Students proposed approach to regulating harassment and sexual misconduct
- the Australian Human Rights Commission's *Change the Course* report (2017)
- the National Safety Student Survey (2022)
- the National Tertiary Education Union's sexual harassment survey (2023)
- the final report of the Australian Parliament's Senate Committee's *Inquiry into Current and proposed sexual consent laws in Australia* (2023).

In determining the architecture of the National Code, the Department proposes that Standards reflect the expected outcome to be achieved, and the expectations and requirements of providers to achieve it.

Expectations should be ambitious and clearly outline the obligations of providers. Requirements should be specific and ensure they can be implemented to account for providers' scale, size, locations and student and staff profile. Subsequent indicators would be developed in line with the expectations and requirements to support providers in demonstrating compliance with the National Code.

The following sections details the proposed Standards for the National Code, including considerations of proposed outcomes, expectations, and requirements. It also describes the proposed regulatory framework and operations for the Unit in regulating for compliance.

Potential Standards

1. Accountable governance and leadership

Organisational cultural change must be led from the top. Governing bodies of higher education providers hold ultimate accountability for the performance of the organisation for the prevention of gender-based violence, requiring a dedicated focus and commitment to leadership, knowledge, risk management and culture.

Real change can only be achieved through governing bodies and leaders taking action across all aspects of the organisation. This includes embedding behaviours to ensure safety and respect, to hold senior leaders to account for performance and resourcing the implementation of policies, procedures and training that can have impact. It also requires addressing gender-based violence as a core part of workplace health and safety and risk management strategies, including in leadership and recruitment, and to regularly report on all aspects of performance.

There are positive examples of governing bodies and senior leaders addressing this issue, including establishing dedicated committees and specific annual reporting by some universities on their performance in addressing gender-based violence. However, consultations on the Action Plan highlighted that many students and staff lack confidence in their institutions' commitment. This included:

- addressing gender-based violence is framed within a compliance lens rather than core to an organisation's culture and responsibility and lacks visible commitment of leaders on action
- lack of clarity across the sector on how governing bodies and leaders discharge their obligations and perceive their role in protecting student and staff safety, particularly for those off campus. This affects resourcing, decision-making in disciplinary procedures and the provision of appropriate support to victim-survivors and alleged perpetrators
- there is variation in how governing bodies oversee, monitor and evaluate activities, with ad-hoc, limited or no public reporting by providers across a range of indicators to provide transparency of performance
- there are different levels of support for staff and students to raise concerns and make disclosures without fear of sanction or inaction.

Unless governance bodies hold and take responsibility for a whole-of-organisation approach, measures to address gender-based violence will be inadequately resourced and remain siloed from other efforts to improve safety and wellbeing. This means these measures will continue to be limited in their effectiveness.

A standard on governance and leadership ensures accountability at the highest level and reflects how addressing gender-based violence is core business.

This standard could include the following expectations of providers:

- the governing body and leadership continually demonstrate collective accountability for preventing and responding to gender-based violence across the organisation

- the governing body and leadership embed a culture of safety, prevention and quality response efforts across the organisation
- the governing body and leadership are transparent about preventing and responding to gender-based violence with their students, staff and the broader community.

This standard could include requirements for providers to:

- have governance arrangements that facilitate full compliance with the National Code, including but not limited to:
 - strategic and operational priorities and operations
 - enterprise and risk management
 - human resources, people and culture
 - owned and operated student accommodation
 - contractual arrangements with third-party providers and contracted student accommodation
 - research and industry partnerships
- set targets for achieving gender balance and diversity across the organisation, including for the governing body, senior leadership team and staff
- ensure their governing body and Vice-Chancellor/Chief Executive Officer have regulations that detail responsibilities and administration of specific powers in relation to preventing and responding to gender-based violence
- have annual key performance indicators for senior leaders linked to prevention, response and assurance activities within their responsible portfolios
- ensure their governing body is regularly provided with information and institution-based data to identify and respond to risk and improve the performance of processes and programs
- conduct annual performance reviews of the whole-of-organisation approach and publish these reviews in the form of a standalone report.

2. Effective organisational policies and practice

Implementation of a successful whole-of-organisation approach requires a comprehensive range of policies that advance gender equality, address the drivers of gender-based violence and provide clear guidance in responding appropriately to incidents of violence. This requires meaningful policies that connect the provider's values to expected behaviours, performances and practices.

Policies must be relevant to the specific challenges and issue to be addressed, and to the environment in which they apply. They must acknowledge requirements for different settings such as online and work-based learning environments, and for different staff and student groups. The implementation of these must also support the ambition. Generic policies on sexual harassment or misconduct risk having a narrow impact and can lead to gaps in responses.

Various regulatory requirements require higher education providers to have policies covering a range of issues, including on student support and wellbeing, critical incident management, and workplace health and safety. While these are key parts of an effective approach, there can be overlapping and competing requirements that can cause confusion and unintended consequences. Many of these regulations also lack specificity on what policies should entail, leading to practices falling short of intended outcomes.

Consultations on the Action Plan raised consistent themes around the need for a holistic and integrated approach across providers' policies and practices:

- organisational policies do not address the drivers of gender-based violence, leading to gaps in coverage and contributing to a compliance-based culture and approach
- relevant policies do not always reflect the needs of First Nations people, people with disability, LGBTIQ+ people, culturally and linguistically diverse people and international students and staff, and are not developed in consultation to reflect expertise or lived experience
- policies are not regularly reviewed to mitigate against emerging issues and do not deal with complex matters, such as recruitment and performance management practices or incidents that occur in external, third-party or partner environments
- policies of student accommodation providers do not always align with those of their affiliated or partner provider, which can lead to significant differences in responses to incidents, support for victim-survivors and perpetrators and disciplinary procedures.

Policies are only as good as their implementation. Providers need to ensure that policies guide behaviours and practices across the whole organisation and represent their core values in action.

A standard on policies and practice enables a positive, organisation-wide culture that addresses the drivers of gender-based violence and prioritises the safety of victim-survivors.

This standard could include expectations that providers:

- ensure all relevant policies prevent and respond to gender-based violence
- ensure policies are effectively and consistently implemented across the organisation to ensure collective performance, compliance and accountability.

This standard could include requirements for providers to:

- address gender-based violence in policies relating to the following areas:
 - students
 - staff
 - teaching and learning
 - research and research pathways
 - business and operations
 - student accommodation
- have specific policies on:
 - gender-based violence
 - student code of conduct
 - staff code of conduct
 - conflict of interest policy for student/staff/manager/supervisor relationships
 - responding to disclosures on gender-based violence
 - gender equality
 - whistleblowing
 - prohibiting use of non-disclosure agreements unless requested by the victim-survivor
 - recruitment and promotion of individuals who have been subject of an organisational, criminal or civil process relating to an incident of gender-based violence
- ensure policies integrate related legislation, regulation and jurisdictional requirements to reflect a holistic whole-of-organisational approach
- ensure policies are published on the provider's website and are easy to find, navigate and understand
- develop and regularly review policies, in consultation with students, staff, experts and victim-survivors and demonstrate an intersectional approach
- ensure gender-based violence is addressed in contractual arrangements with third-party contractors, sub-contractors and sites of work and clinical placements
- in environments considered high-risk (such as student accommodation and clinical placement settings) develop policies in partnership with relevant parties and provide for agreed, common actions to ensure the best outcome for students and staff.

3. Trauma-informed, safety-first procedures

The safety and wellbeing of victim-survivors and the provider's broader community can only be prioritised if those involved in responding to disclosures and complaints of gender-based violence understand the impact of trauma on people's wellbeing. Every stage of informal and formal procedures is critical to victim-survivors' ability to recover and heal and their safety must be protected at all stages.

Higher education providers are required to have complaints handling and appeals processes, including provisions for confidentiality, independent professional advice, advocacy and other support to parties involved. Providers are also required to deliver timely resolution of formal complaints and observe procedural fairness. There are no national requirements for student accommodation providers regarding procedures.

Consultations on the Action Plan highlighted:

- some victim-survivors did not make a formal report about their experience of gender-based violence because the provider's initial response to their disclosure was inappropriate and, in some cases, compounded their trauma
- providers need specific guidance on how to protect and promote the safety and wellbeing of victim-survivors along the continuum of procedures, from disclosures to appeals
- some procedures do not consider the specific needs of victim-survivors as they relate to intersectionality
- some providers are unwilling to terminate employment or use their exclusionary powers to expel students due to a fear of litigation.

All parties involved in inquiries, investigations and disciplinary processes have the right to be treated fairly and without victimisation. Protecting the safety of the victim-survivor and observing procedural fairness are not mutually exclusive – and if there is a conflict between the two, the safety of the victim-survivor must be prioritised. Providers must move away from using a disciplinary lens to using a safety lens when considering allegations of gender-based violence.

A standard on procedures ensures victim-survivors are safe and supported, and perpetrators are held to account.

This standard could include expectations that providers:

- ensure all procedures – from disclosures to appeals – protect the safety of both victim-survivors and the broader community
- all people involved in informal and formal procedures know and understand the effects of violence on victim-survivors
- enable perpetrators to be held to account and providers support them to stop their violent behaviour.

This standard could include requirements for providers to:

- have anonymous reporting mechanisms
- provide information on procedures in a clear, consistent, trauma-informed and culturally safe way to all parties involved and keep them informed of progress

- undertake a risk assessment of the threat posed to the provider's community following a disclosure and take appropriate action
- deliver training in applying trauma-informed approaches to investigations to all staff involved in inquiries, investigations, disciplinary and appeals processes, including staff in student accommodation, and evaluate this training for its effectiveness
- conclude disciplinary processes within one month of commencement (unless there are extenuating circumstances)
- avoid or limit cross-examination of victim-survivors wherever possible
- apply proportionate sanctions where an allegation is substantiated, including using exclusionary powers and terminating employment and enrolment
- advise victim-survivors of the outcome of procedures and where relevant, when a sanction has been applied
- have arrangements in place that minimise the need for victim-survivors to share their story more than once to their providers, including arrangements that allow the sharing of information on incidents of gender-based violence between higher education providers and student accommodation providers
- provide information regarding access to services and support for all parties, including access to counsellors and behaviour change programs
- not have the same person/ team providing support to both the victim-survivor and alleged perpetrator
- not use non-disclosure agreements unless requested by the victim-survivor
- uphold procedural fairness.

4. Evidence-based education and training

Evidence-based, effective education and training on gender-based violence needs to be delivered to providers' students, staff, leaders and governing bodies. This includes training on gender equality, diversity, respect and inclusion; the drivers of gender-based violence; the negative effects of this violence on people's health and wellbeing; and how to respond to disclosures in a trauma-informed and compassionate way. It also includes consent and respectful relationships education and bystander training aimed at addressing harmful gender stereotypes and violence--supportive attitudes.

For education and training to be effective, it must go beyond what is considered unacceptable behaviour to focus on the kind of work, learning and living environments providers want to create. Education and training should not be 'one-off' – it should be iterative, involve collaborative learning and presented repeatedly over time. It should sit within the provider's broader commitment to ending gender-based violence and be supported by other education and training, role modelling of respectful behaviours and positive messaging about gender equality, respect, diversity and inclusion. It should also be designed in consultation with, and reflect the needs and experiences of, specific cohorts of students and staff.

Positive duty obligations require higher education and student accommodation providers, as employers, to support workers to engage in safe, respectful and inclusive behaviour through education. There are no national requirements for providers to deliver prevention education and training to students, nor to monitor the effectiveness of this training.

While many providers offer education and training programs to staff and students as part of their commitment to addressing gender-based violence, programs' grounding in the evidence base and their effectiveness in changing problematic attitudes is unclear. Consultations on the Action Plan showed that:

- many staff, including those in student accommodation, do not have the skills to respond appropriately to disclosures
- students, staff and victim-survivors are not always consulted on the design or delivery of education and training
- intersectionality is not prioritised in some education and training
- one-off consent modules don't support attitudinal change.

While it is recognised that providers require flexibility to tailor prevention education and training to suit their student and staff profile, programs must always reflect and contribute to the evidence base.

A standard on education and training increases awareness and understanding of gender-based violence across the organisation to maximise the effectiveness of prevention and response efforts.

This standard could include expectations that providers:

- continuously build the knowledge and skills of students and staff to challenge the drivers of gender-based violence and advance gender equality, diversity, respect and inclusion

- ensure victim-survivors always receive an effective and compassionate response

This standard could include requirements for providers to:

- deliver evidence-based prevention and response education and training to all students and staff that reflects the experiences and needs of specific groups, including First Nations people, people with a disability, culturally and linguistically diverse people, international students and staff and LGBTIQ+ people
- deliver unconscious bias training to all staff
- deliver annual training to all staff (including leaders and governing body members), student accommodation staff, student leaders, pastoral care leaders and residential student advisors on how to respond effectively to disclosures of gender-based violence
- ensure education and training is trauma-informed, culturally safe, informed by experts and regularly adapted in line with new evidence and ongoing consultation with the provider's community, victim-survivors and subject matter experts
- deliver training which is iterative and involves collaborative learning
- evaluate all education and training for effectiveness in increasing awareness and shifting attitudes towards gender equality, respect and inclusion as well as attitudes towards violence against women and LGBTIQ+ people.

5. Expert and timely support services

Timely access to specialist support for victim-survivors of gender-based violence is critical to their mental and physical health and wellbeing and their ability to remain engaged in study or employment. Equally, perpetrators require early intervention and/or access to services that can support them to stop their inappropriate or violent behaviour.

Higher education providers deliver a range of support services across their different locations and in different settings, including:

- counselling
- immediate crisis support
- academic counselling and support
- health, wellbeing and medical services
- cohort-specific support (i.e., support designed for people with a disability, First Nations people, culturally and linguistically diverse students, international students and LGBTIQ+ people).

Since 1 January 2024, higher education providers have been required to have a Support for Students Policy. Among other criteria, this policy must include information on how the provider ensures that support from individuals or organisations with appropriate expertise is available to assist those students with overcoming issues that put them at risk of not successfully completing their units of study. It must also provide information on specific academic and non-academic supports for students who have experienced family and domestic violence, harassment, sexual harm, or other traumatic events.

Consultations on the Action Plan showed that:

- timeliness and access to expert support provided to victim-survivors and perpetrators differs among providers and is dependent on allocation of sufficient resources and expertise available
- there is a discrepancy between the nature and level of support available to students versus staff
- wait times for a providers' counselling services or referral out to external specialist support services can mean students and staff don't receive appropriate support when they need it
- communication of support available varies across providers, sometimes leaving students and staff unaware that support is available from their provider or where to get support externally.

All victim-survivors and perpetrators should receive or have access to the same level of expert support when they need it, regardless of the institution at which they study or work.

A standard on support services ensures all victim-survivors and perpetrators have access to expert-led support specific to their experiences.

This standard could include expectations that providers:

- ensure students and staff affected by gender-based violence receive support services to meet their specific needs
- provide specific resourcing for the delivery of quality support services.

This standard could include requirements for providers to:

- deliver, or facilitate access to, support services that are expert-led, trauma-informed, culturally safe and tailored to student and staff needs, including cohort-specific support (i.e., support designed for people with a disability, First Nations people, culturally and linguistically diverse people, international students and staff and LGBTIQ+ people)
- establish service-level standards for provision of support services, including standards for timeframes for delivery, quality and performance of services, and transparency in how these standards are met
- provide information on these services to students and staff, as well as referral pathways to external services and after-hours support, that is easy to find, navigate and understand
- provide information on services in languages other than English
- regularly review support services to ensure they are meeting the needs of the provider's community.

6. Transparent data and reporting

Regular collection of robust and consistent data is critical to understand the nature and extent of the occurrence of gender-based violence, where prevention efforts are having a positive impact, and to identify areas for improvement. Without this data, change cannot be measured within providers or across the sector.

While data is currently collected on staff and student experiences of sexual violence at the individual university and national university level, there is a lack of sufficient data on all types of gender-based violence experienced by non-university provider students and staff. There is also inconsistency in data terminology, collection and reporting within and between providers, and between providers and national surveys. Data on incidents of gender-based violence in student accommodation is extremely limited.

Regular surveys of both university and non-university students and staff are essential to track performance of the sector and better understand the experiences of victim-survivors. The last survey of university students was conducted in 2021; Universities Australia has committed to undertake another survey in 2024.

Stakeholders raised the following issues during consultations on the Action Plan:

- there is inconsistency in how providers define gender-based violence, compromising the robustness and comparability of data
- institutional-level data is not regularly published by all providers
- there is a lack of data on gender-based violence in non-university higher education providers
- there is limited visibility of rates of violence experienced in student accommodation services
- it is unclear how providers are using existing data to inform prevention and response activities.

Qualitative data on the experiences of victim-survivors is as critical as prevalence data. Their views on how institutions respond to disclosures, as well as their experiences of formal reporting and disciplinary processes, will enable providers to pivot where necessary and improve performance.

A standard on data and reporting provides transparency to hold providers accountable for their performance.

A standard on data would enable the Department to create a national dataset that will contribute to the evidence base and be included in an annual report to Parliament through the Australian Government Minister for Education. Requirements for providers to collect and share data would be balanced with the Government's commitment to uphold informed consent and protect individuals' confidentiality and privacy.

This standard could include expectations for providers to:

- Create transparency on provider performance through data reporting, that drives improvement and accountability
- contribute to the creation of a nationally consistent dataset to measure sector-wide prevalence and progress

This standard could include requirements for providers to:

- collect data according to agreed definitions that align with the *National Plan to End Violence against Women and Children 2022–2032*
- provide data on a regular basis to the Department of Education broken down by incidents related to staff and/or students including, but not limited to:
 - number of disclosures (anonymous and non-anonymous) by type of violence by location of incident
 - number of risk assessments and findings
 - number of safety plans put in place (interim and permanent)
 - number of formal reports/complaints and whether these led to an investigation and/or disciplinary process
 - number of investigations/disciplinary processes, findings and outcomes
 - number of appeals in relation to misconduct
 - number of non-disclosure agreements used and who requested them
 - timeframes from formal report/complaint to resolution
 - demand for support services and whether this demand was met
 - demographic characteristics of victim-survivors and alleged perpetrators (observing informed consent, potential to be identified, privacy and confidentiality)
 - student and staff knowledge about and experiences with support services, reporting, policies and procedures
- publish this data as part of its annual standalone report on its whole-of-organisation approach to prevent and respond to gender-based violence (see standard 1).

7. Safe student accommodation

Student accommodation is an especially high-risk environment for the perpetration of gender-based violence. Residents that experience this violence often live close to the alleged perpetrator, requiring urgent action from accommodation staff to protect the victim-survivor when they make a disclosure. Student residential advisors, who are likely to be first responders, are often not trained to respond effectively and compassionately to disclosures.

There are currently no national requirements that all student accommodation providers must meet regarding student safety and wellbeing.

Long histories of hazing practices and disrespect for women have contributed to violence against women and LGBTIQ+ people in these settings. Consultations on the Action Plan showed the need for regulatory intervention:

- some victim-survivors reported the response of their residence to an incident exacerbated their trauma
- some student accommodation staff stated they do not have the expertise to conduct trauma-informed inquiries and other processes relating to incidents of gender-based violence
- there is a need for greater collaboration between accommodation providers and higher education providers on work to address gender-based violence to enable an integrated approach to protecting community safety
- residents noted there is significant variation in how different types of accommodation providers respond to incidents, and providers' commitment to protect and promote their safety is unclear at times
- some students do not know where to go to report an incident or access support.

A standard on student accommodation ensures victim-survivor residents are safe and supported where they live.

A key goal outlined in the Action Plan is to foster stronger collaboration between higher education providers and student accommodation providers, regardless of whether they are owned and/or operated by higher education providers or standalone providers.

The Australian Government is exploring options for a new regulatory framework for standalone student accommodation providers. Once established, standalone accommodation providers would be required to meet standards of the National Code. In the interim, it is expected that these providers will work to meet the National Code and collaborate with the relevant higher education provider/s to align as far as possible their policies, processes and practices in relation to gender-based violence.

Student accommodation that is owned and/or operated by a higher education provider will be required to meet standards of the National Code regarding:

- governance and leadership
- policies
- procedures
- education and training
- data and reporting, where possible.

There is an expectation that student accommodation providers will need to meet an adjusted standard on support services to facilitate access to relevant support services.

In addition to meeting these standards, owned and/ or operated student accommodation providers are expected to:

- align with all standards outlined in the National Code as part of a whole-of-organisation approach
- actively partner with relevant higher education providers to improve practice, leverage existing resources and share relevant data and information
- directly address and prohibit problematic cultures and practices, including hazing.

This standard could include requirements for student accommodation providers to:

- immediately implement safety plans regardless of whether an allegation is substantiated (given the close proximity residents)
- include provisions in all residents' contracts that enable providers to expel perpetrators or move any student required as part of a safety plan
- establish information-sharing arrangements with affiliated/relevant higher education providers to promote the safety of the victim-survivor and the broader community
- provide information on support services to residents and staff, as well as referral pathways to external services and after-hours support, that is easy to find, navigate and understand.

Compliance with the National Code

A dedicated Unit will be established in the Department of Education to lead the establishment and ongoing administration of the National Code. The Unit will be expert-led and deliver a range of education, regulation and communication activities to ensure the sector's ongoing compliance with the National Code.

To ensure student and staff safety and wellbeing in higher education, striving towards the demonstration of quality and best practice against the National Code should be the goal for all providers. It is proposed the Unit will take an outcomes and risk-based approach to monitoring, assessment and enforcement for compliance when a serious issue is identified.

Education and capability building

By taking an educational focus, the Unit would play a key role in building capability across the sector in meeting the National Code and foster a culture of continuous improvement. This would allow providers to implement the National Code in a way that reflects their profile, which the Unit would be required to consider when monitoring for compliance.

The Unit would also work to facilitate partnerships between providers and research experts, networks and organisations – such as Australia's National Research Organisation for Women's Safety (ANROWS) and Commonwealth agencies leading work on domestic, family and sexual violence – to support development of resources and share best practice across the sector, further contributing to the evidence base on what works and how this can be applied by providers.

Regulating quality

There is a fundamental difference between demonstrating achievement of compliance requirements that are binary and demonstrating substantive quality that is above compliance requirements. In practice, this means that simply having a policy on complaints handling is insufficient. Instead, providers should take on a more reflective lens, for example:

- what are the impacts of this policy on victim-survivors?
- is this policy effective in meeting the policy intent (e.g. whole-of-organisation approach)?
- what mechanisms are in place that enable consistent evaluation and can feed into the continuous improvement cycle?

Regulating quality requires a high performing sector. A phased approach is proposed to achieve this:

- **short-term:** establish a set of compliance-focussed requirements with certain levels of quality requirements built in. This would set the baseline for how gender-based violence is being addressed.
- **medium-term:** using the baseline, form a view of sector performance and maturity in addressing gender-based violence and demonstrations of best practice informed through research, data from individual monitoring activities/investigations, sector engagement with stakeholders, and data submitted by providers.

- **long-term:** pursuing higher aspiration above mandatory standards through defining what quality looks like, and continuing to lift quality of how gender-based violence is being addressed in higher education.

Compliance

Full compliance with the National Code will always be expected. Proposed compliance indicators will support providers to demonstrate their approach complies with the proposed expectations and requirements. Further guidance materials would support providers to show enhanced quality and excellence.

Consistent with a range of regulatory models, the legislation for establishing the National Code will ensure the Unit can use a range of regulatory strategies and tools to monitor and take action in relation to systemic issues of a provider.

The Unit would focus on the level and nature of the risk as part of assessment and ongoing monitoring. Where issues of non-compliance emerge, the Unit would be able to draw on a range of investigative tools to actively monitor for issues and actions. This could include:

- proactive audits
- undertaking investigations where non-compliance is suspected
- requesting information from providers
- using information received from other regulators, such as TEQSA
- analysing data gathered from providers through a new and regular data collection.

The Unit should be able to utilise a range of regulatory tools to respond where a provider has been found to be non-compliant and based on the seriousness of the non-compliance. This could include:

- informal resolution
- warning letter
- voluntary undertaking
- publication of non-compliance and regulatory actions
- infringement notice
- civil penalties
- enforceable undertaking
- compliance notices
- injunctions.

The Department proposes compliance with the National Code would become a condition of approval under the *Higher Education Support Act 2003*. This would link the National Code to the broader higher education regulatory framework and act as an additional regulatory tool to encourage and enforce compliance. Providers already have an obligation to comply with legislative requirements under the Threshold Standards (Standard 6.2.1.a), which would capture the National Code once established.

It is proposed that a provider's repeated non-compliance with the National Code could be referred to TEQSA to identify any systemic issues effecting compliance with the Threshold Standards. Additionally, it is proposed that repeated non-compliance could impact on a provider's approval under the *Higher Education Support Act 2003*.

Intersections with the National Student Ombudsman and TEQSA

As a standard of the National Code, it is proposed that providers would be required to implement recommendations made by the National Student Ombudsman (once established) where the National Student Ombudsman makes a recommendation in favour of the student. This is similar to the requirements of the ESOS National Code (10.4), which requires providers to immediately implement decisions or recommendations and/or take the preventative or corrective action required by the outcomes of an external complaints handling or appeals process, where the complaints handling or appeals process finds in favour of the student.

The Unit could take compliance action for failure to meet this requirement where the provider had refused to take recommended actions that would have a systemic or ongoing impact on student experiences.

The Unit will be expected to receive complaints related to systemic issues of a provider in relation to their compliance with the National Code. Providers will also be required to notify the Unit on matters that could affect their compliance with the National Code. The Unit, TEQSA and the National Student Ombudsman would also share information about systemic issues and issues of mutual interest related to one another's legislated functions. This would strengthen the oversight and accountability of providers against legislative requirements and help to drive quality and best practice in the sector.

The Unit will not be the right pathway for complaints from students or staff on individual matters. Students will be encouraged to access their providers' complaints handling and grievance processes, and if they are unsatisfied with their provider's response will be able to escalate to the National Student Ombudsman. Staff will continue to be able to access complaints handling bodies such as the Australian Human Rights Commission and other equal opportunity commissions.

Consultation questions

The following consultation questions have been provided to guide your responses and feedback on the potential standards outlined above. You are not required to answer all the questions listed below.

The Department is seeking your responses on potential standards in relation to their clarity, level, currency, applicability, coverage, interoperability and measurability. Responses are also invited on how standards can account for variations in size, scale and complexity among higher education providers while reflecting the evidence base.

You can provide your feedback through replying to an [online survey](#) or [download this template](#) to submit your feedback via nationalgbv.code@education.gov.au.

1. For the purposes of defining gender-based violence in the context of the National Code and as part of associated compliance activities, what are key considerations for the Department?
2. How can the Department ensure the alignment of the National Code with other education regulations (e.g. Threshold Standards, ESOS National Code) and broader regulatory frameworks (e.g. privacy laws, positive duty)?
3. Do the potential Standards cover all aspects of a 'whole-of-organisation' approach and what is necessary to protect and promote the safety of students and staff? Are there other standards to include? Please detail and why.
4. What additional requirements should be included for each Standard? Please detail for each standard and why.
5. How should standards account for providers' size, student and staff profile and location/s (including regional, metropolitan and Australian and international campuses)?
6. Recognising student accommodation settings are high-risk environments, are there additional considerations for these providers under the National Code?
7. Beyond the National Code, what additional resources and materials would be required by providers to support implementation and ongoing compliance?
8. What else needs to be considered in the Department's approach to regulating the National Code?
9. How often should the National Code be reviewed and updated?
10. What are examples of good practice that can be drawn on to inform the design and implementation of the National Code?

Please provide reasons in your answers and nominate alternative suggestions where relevant.