

Submission in response to the Universities Accord Panel Interim Report

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Executive Summary

Thank you for the opportunity to provide a submission in response to the Universities Accord Panel Interim Report.

I am a current PhD student at Deakin University. My research is exploring the possible disjuncture between sexual violence policy and practice in Australian universities, by examining how sexual violence is represented within written policies and procedures – with a particular focus on responses to and/or handling of disclosure and reports from student victims. I am also documenting the perceptions and lived experiences of student victims of sexual violence at Australian universities, in terms of their disclosure/reporting of incidents, and any outcomes.

My work is situated within, and driven by, findings from the Australian Human Rights Commission's (AHRC) (2017) *Change the Course: National report on sexual assault and sexual harassment at Australian universities*, the 2021 *National Student Safety Survey* (NSSS) (Heywood et al. 2022), and a number of high profile cases that attracted media attention (Baker 2021; Butterly 2016; Carey 2023; Carr 2023; Cole 2021; Funnell 2016a; Holman 2022; Robertson 2017; Souisa and Salim 2020; Stewart 2020; Tolhurst and Hall 2022; Tuohy 2022). The rates of reported incidents, the profound and enduring effects of sexual violence, and the perceptions and experiences of those affected indicate that Australian universities are not doing enough to respond to, or prevent, sexual violence within their communities.

There are few legal requirements governing university responses to sexual violence, and Australian universities are currently subject to limited external or independent oversight. My submission addresses the following aspects:

Three most significant reflections on the Interim Report:

1. The acknowledgement of student safety and wellbeing, specifically sexual violence, and the recommendation for this to be a priority focus for the Australian Federal Government.
2. To support immediate action and proactive change, the Australian Federal Government must implement a Taskforce to address sexual violence in university settings.

3. To ensure transparency and accountability, the new Taskforce must publicly report institutional failures to adequately address sexual violence, and ensure visibility of the penalties imposed when universities fall short of accepted community standards.

Areas of substantive agreement:

1. The need to improve university governance, particularly focusing on student safety and wellbeing, and specifically in relation to sexual assault and sexual harassment.
2. The need to establish a new national body, founded on principles of independence and expert decision-making, to oversee the higher education sector across Australia.
3. The need to develop a student-charter, co-designed with students, to ensure and support a national commitment to student safety, wellbeing, and empowerment across the higher education sector in Australia.
4. That current accountability requirements are not translating into effective oversight and support for students and staff.
5. That students are at the centre of the mission of higher education.
6. That students must feel safe on campus, to improve their educational experience and outcomes, and to ensure their overall well-being.
7. That options for addressing student complaints are currently inadequate.
8. That students require stronger voices within governance and decision-making spaces, in order to hold universities to account.
9. The need to establish a Higher Education Student Ombudsman, to streamline student complaints and grievances.
10. The need to adopt a national Code of Practice and governance for University Councils, combined with enhanced public reporting.
11. The need to strengthen the role of the Commonwealth Ombudsman with respect to student complaints.

Area of substantive disagreement:

That these reform priorities and proposed actions be implemented by 2035. Immediate action is needed, and this must be much sooner than 2035. Students need help now!

Suggested measures of success:

1. The Australian Federal Government should provide funding for organisations which are dedicated to eliminating sexual violence in university settings.

2. Universities should be required to maintain and publish records of the number of disclosures and reports of sexual violence, and any/all outcomes and actions resulting from investigations and inquiries into such reports.

Recommendations:

1. The Australian Federal Government should establish an independent, expert-led Taskforce to oversee, monitor, and publicly report Australian university progress in addressing campus sexual violence.
2. Student voices should be embedded within existing internal university governance and decision-making bodies that are responsible for addressing how universities handle disclosures and/or reports of sexual violence.
3. The Australian Federal Government should fund advocacy groups dedicated to preventing sexual violence in university settings.
4. Australian universities should be required to publish annual reports of the number/type of disclosures and reports received regarding sexual assault and sexual harassment, and any outcomes and action/s taken.

Main Submission

Three most significant reflections on the Interim Report:

1. That student safety and wellbeing, specifically the need to address sexual assault and sexual harassment, is acknowledged within the Universities Accord Interim Report and recommended as an area of priority for action is a very welcome first step. However, there is more to be done – much of which is urgently needed – while longer-term interventions are being considered and their implementation is being planned.

Students need help now! They cannot wait for further discussion or the release of additional reports, guidance notes, etc. At current rates, thousands of students are likely to be affected by sexual violence even before the Accord Panel releases its final report in December 2023.

2. To support immediate action and proactive change, the Australian Federal Government needs to implement a Taskforce. Echoing a recommendation made by End Rape On Campus (EROC) Australia (2023), campaign partners, and Fair Agenda,¹ the Accord Panel should support the creation of an independent, expert-led accountability and external oversight mechanism, with a specific mandate to address sexual violence in university settings.

Presently, there are few legal mandates/requirements on universities to address sexual violence – and university approaches to addressing this serious issue continue to be inadequate. With increased oversight and focused mandates, universities can be forced to act and to improve their responses to sexual violence (especially if there are clear consequences for failing to act e.g., specific sanctions). There is currently little motivation or incentive for universities to comply with regulatory bodies (e.g. the Tertiary Education and Quality Standards Agency [TEQSA]) or to adhere to the requirements of the *Threshold Standards* – as TEQSA’s regulatory response to complaints about sexual violence in university communities have not extended beyond ‘monitoring and annual reporting’ (Henry 2023).

3. To ensure transparency and accountability, the new Taskforce must report publicly on institutional failures to adequately respond to sexual violence (while ensuring that the victim can remain

¹ On 9 July 2023, EROC Australia, “together with its campaign partners, Fair Agenda and 44 other signatories, including past and current student representatives, women’s support services, and other advocates,” wrote “an open letter calling on the Albanese Government to urgently intervene to address university failures to prevent and respond appropriately to sexual violence” (EROC Australia 2023). See: <https://www.endrapeoncampusau.org/eroc-australia-publications-open-letter>

anonymous if they choose), as well as the sanctions imposed on universities when they fail to meet accepted community standards in relation to their responses to reported sexual violence.

For many student victims, the response of their university (or lack thereof) to their disclosure and/or formal report can compound the trauma of the sexual violence. The consequences of both can be profound and enduring - affecting their educational and academic experience and outcomes (e.g., fail classes, drop out), relationships, mental health, self-esteem, and longer-term prospects.

Australian universities have demonstrated that they cannot be trusted to “mark their own work” (e.g. through tick-box audits of recommendations or initiatives they have implemented) (Carr 2023, para.11). An independent expert-led accountability and external oversight mechanism must be put in place to hold universities accountable for their actions and inactions in relation to sexual violence – both in the post hoc handling of reports, and in tackling systemic/structural causes.

Areas of Substantive Agreement:

1. **Priority Action 5 (p.13):** “Through National Cabinet, immediately engage with state and territory governments and universities to improve university governance, particularly focusing on...student and staff safety...Governing bodies must as a priority do more to improve student and staff wellbeing and become exemplary employers.”

University governance must be improved as students and staff are not safe on-campus: “universities have a clear responsibility to provide a safe environment for students. With 275 sexual assaults in a university setting each week, it’s clear they are failing” (Larissa Waters quoted in Brancatisano and McHugh 2023, para.33). Governing bodies have a responsibility to ensure that universities meet their obligations under the *Threshold Standards*, which includes promoting and fostering a safe on-campus and online environment. Improving student and staff wellbeing and safety will help foster better educational and employment experiences, and career progression.

2. **Strengthening Institutional Governance (p.21):** “Staff and student safety, including in relation to sexual assault and sexual harassment, requires concerted action.”

Concerns about student safety, particularly relating to sexual violence, have featured prominently across Australia’s news media. Yet universities continue to place students (and staff) in an unsafe environment (for studying, employment, as well as living – where there is on-campus

accommodation) (e.g., see – Butterly 2016; Holman 2022; Robertson 2017; Tolhurst and Hall 2022). Just one student subject to sexual violence in a university setting, let alone hundreds each week, should be sufficient incentive to ensure that universities undertake concerted action to improve student and staff safety and address the issue of sexual violence.

3. ***A coherent national tertiary system (p.21)***: “...a. the benefits of establishing a new national body, a Tertiary Education Commission...which could: i. be based on the principles of independence and expert decision-making to provide oversight, coordination and expert advice to the higher education sector”.

National leadership for a new system (p.124): “A national body purposefully convened for sector oversight would possess the expertise and authority to drive the strategic direction of tertiary education, guiding institutions as they navigate the complex and evolving education landscape”.

An independent and expert-led oversight mechanism, or equivalent, has been recommended repeatedly as a priority by organisations and groups, including EROC Australia, Fair Agenda, the National Union of Students, and the Hunting Ground Project Australia, since at least 2017 (EROC Australia 2017). An independent decision-making body will help to increase transparency and accountability in relation to university responses to, and handling, of sexual violence.

4. ***Institutional and collaborative governance (p.129)***: “...institutions may not be adequately engaging with some very serious issues within their remit”. “...systemic issues persist across the higher education sector”. “...sexual assault and harassment on campus is affecting the wellbeing of students and staff, and their ability to succeed”. “...benefits of a potential student charter, co-designed with students, to ensure a national commitment to student safety, wellbeing and empowerment”.

The high rates of sexual assault and sexual harassment experienced by students in a university setting, and the typically insufficient responses from universities, indicate that institutions are not adequately engaging with this systemic issue. Sexual violence is a serious issue which universities have a responsibility to address. It has many consequences for the wellbeing of students (and staff) which, in turn, affect their ability to succeed within their higher education and career prospects.

The inclusion of student voices in the space of university responses to reports of sexual violence should be a priority – particularly student victims of sexual violence (Durbach 2018; Haro 2023; Marriner 2016; Ullman 2010). A student charter, co-designed by students, would enable the voices of students to be embedded within a governing body for universities. This has the potential to

centre the needs of student victims of sexual violence through establishing a more holistic approach. This will include essential voices at a higher administrative and decision-making level and may help to minimise the re-traumatisation of victims (Haro 2023; Marriner 2016).

5. ***Strengthening institutional governance structures (p.129)***: “Issues of...student safety illustrate that these accountability requirements do not always translate into effective oversight and support for staff and students, and that this is a systemic challenge”.

A common theme is that current ‘accountability’ requirements (e.g., Threshold Standards) and monitoring and reviews by TEQSA, are not sufficiently effective in overseeing university responses to sexual violence, nor are they ensuring support for students and staff. Wellbeing and safety concerns, including sexual harassment and sexual assault, sit within TEQSA’s regulatory responsibility, and each are issues upon which it can take action (TEQSA 2022). TEQSA’s role is to ensure that “universities are actually doing what they say they are doing” (TEQSA 2019a:11-12). Where an institution of higher education is found to be non-compliant with the *Threshold Standards*, TEQSA can suspend or cancel that institution’s registration, impose fines, etc. Despite high-profile campus sexual violence cases, TEQSA has never made a finding of non-compliance against a university: the toughest sanction applied has been ‘monitoring and annual reporting’ (Bull and Page 2021a; Henry 2022, 2023). There is also a lack of timeliness and transparency with respect to TEQSA’s resolution of complaints and the ways, and extent, to which they hold universities accountable for any inadequate handling of reports of sexual violence (Baker 2018b; Bremner 2018; Precel 2023). Organisations, such as EROC Australia, have stopped recommending that university students engage with TEQSA’s complaints mechanism in relation to any grievances related to university handling of reports of sexual violence.

6. ***Institutions have duty of care to students (p.132)***: “...students are at the centre of the mission of higher education.” “...the Review has heard significant issues of student safety on campus...”

Universities are expected to provide and support an environment where students, staff and visitors feel safe and are treated with fairness and respect (Lee and Wong 2019; McCall et al. 2023). Universities must meet their obligations under the *Threshold Standards* and promote and foster safe on-campus and online environments. Universities have a duty of care to all students and staff to ensure their wellbeing, safety, and overall educational experience. Any circumstance under which student safety on campus is diminished violates the university’s duty of care to its students. Improving student safety, and ensuring that students remain at the centre of the mission of higher education, is a fundamental and urgent priority.

7. **Addressing harm (p.133):** “Students must feel safe on campus. The 2021 National Student Safety Survey found that since starting university, 16.1% of participating students had been sexually harassed, and 4.5% had been sexually assaulted. The Review heard that existing approaches to reduce the incidence of sexual harassment and sexual assault on university campuses are inadequate, with some stakeholders advocating for increased transparency, monitoring and accountability mechanisms.” “The impacts of sexual violence on a student’s educational experience and outcomes can be devastating. Students who have been sexually assaulted experience elevated rates of post-traumatic stress disorder and clinically significant depression and anxiety, resulting in higher rates of nonattendance, delayed academic progression and higher academic failure rates.”

There is abundant (and increasing) evidence that universities routinely fail to prevent, reduce and respond appropriately to sexual violence on campus (e.g., AHRC 2017; Heywood et al. 2022). Increased transparency, monitoring, and accountability mechanisms have been recommended as a priority area in relation to Australian universities’ handling of sexual violence complaints for several years (ERO Australia 2023; Fair Agenda 2018; Henry 2023).

Student victims of sexual assault and sexual harassment often face profound and long-term consequences - affecting their educational and academic experience and outcomes (e.g., fail classes, drop out), relationships, mental health, self-esteem, and longer-term prospects. Improving student safety and wellbeing, alongside sexual violence prevention and education measures to reduce (and ultimately eradicate) sexual violence in university settings, are top priorities.

8. **Enhancing and empowering the student voice (p.136):** “...student groups highlighted a power imbalance between students and influential stakeholders such as universities, peak bodies, government, and industry”. “...options for addressing student’s complaints...are complex, slow, and can be unclear to students, especially those under stress”. “Students require a stronger voice in governance and decision-making and need to be able to hold institutions to account if they are dissatisfied. Stakeholder suggestions to achieve this include establishing a Higher Education Student Ombudsman to streamline student complaints and grievances”.

Currently, students have limited influence within university governance as it relates to sexual violence: influential stakeholders hold the power. Approaches to addressing campus sexual violence that involve a strong partnership between students, staff and influential stakeholders challenges conventional hierarchical norms in institutions (McCall et al. 2023). It is well-established

that existing options for addressing student complaints (e.g., university-led and through TEQSA) are inadequate, take too long (Baker 2018a; Bremner 2018; Campbell 2023; Tuohy 2022), are too complex and lack clarity (Heywood et al. 2022). The 2021 National Student Safety Survey found that students want universities to have clearer and simpler processes for reporting sexual assault and sexual harassment (Heywood et al. 2022). Therefore, improvements to this should be prioritised.

For student safety and wellbeing to be improved, students must have a stronger voice in governance and decision-making. Without substantial input from students, fundamental knowledge about personal experiences of being a university student – and of student victims of sexual violence in a university setting – will continue to be absent from governance and decision-making processes and outcomes (Ullman 2010). There must be a way for students to successfully hold universities to account if they are dissatisfied with their handling of sexual violence reports. A Higher Education Student Ombudsman would be a welcome development in this space.

9. **Considerations for change (p.138):** “Improving the operations of governing bodies: a. adopting a national code of practice and governance for university councils, coupled with enhanced public reporting”. “Improving student wellbeing and accountability: a. developing a national student charter...ensuring a national commitment and consistent approach to the welfare, safety and wellbeing of all students; b. creating new structures and empower existing ones for students to advocate for their interests in institutional and national-level decision making...d. strengthening the role for the Commonwealth Ombudsman in student complaints...”

Adopting a national code of practice and governance for university councils aligns with the recommendation for the development of an independent, expert-led accountability and oversight mechanism (e.g., Taskforce) for university handling of sexual violence. Public reporting has also been acknowledged as an area of priority. In 2018, Fair Agenda, the National Union of Students, and the Hunting Ground Project Australia recommended that the Australian Federal Government establish an independent, expert led taskforce to oversee, assess and **publicly report** the progress of all Australia’s universities in addressing campus sexual violence (Fair Agenda 2018).

A national student charter, co-designed by students, with embedded student voices, would help to centre the needs of students and prioritise their welfare, safety, and wellbeing. This may also assist to both empower existing structures and create new ones for students through which to advocate for their interests regarding internal and national governance and decision-making. As a

result, improvements may be made to the way in which universities handle specific complaints and address the systemic issue of sexual violence.

After they exhaust the internal processes at their university, a student can file a complaint with the relevant state or territory Ombudsman to seek a review of the university's response to their report (Henry 2023). Strengthening the role of the Commonwealth Ombudsman in student complaints can offer an additional level of external oversight of university handling of student sexual violence complaints, and it is, therefore, a welcome suggestion.

Areas of Substantive Disagreement:

There are few areas of substantive disagreement, but the following observations are offered:

1. ***A vision for Australia's future higher education system (p.25-26):*** "By 2035...Governing bodies, notably university councils, proactively foster positive institutional cultures that are transparent and able to deliver strategically, whilst retaining a strong commitment to staff satisfaction and student experience, safety, and wellbeing." "Students are recognised as integral stakeholders and treated as partners in decision-making processes. The obligations and needs of students are embedded in the day-to-day operations and strategies of institutions." (p.26)

Students need help now! **Immediate** action is needed to change embedded and problematic institutional cultures, improve transparency, ensure a strong commitment to student (and staff) safety and wellbeing, including the issue of sexual violence, and recognise students as integral stakeholders. There are actions that can be taken well before 2035 to enhance each of these elements of a better higher education system. With sufficient support and ambition, these goals can be reached much earlier than 2035.

Proposed Measures of Success:

1. Australian Federal Government funding for organisations that are dedicated to ending sexual violence in university settings, such as EROC Australia. This would enable activist and advocate groups and organisations to continue to provide student victims with support regarding their experiences of sexual violence in university settings, and guidance to address any grievances they may have about university responses. By sharing their experiences with advocacy groups, student victims can indicate priority areas for improvement, and identify those elements that are working

well with respect to university responses to reports of sexual violence in a supportive environment – offering some measurement of success.

As part of my PhD research, I have conducted interviews with 10 student victims of sexual violence in university settings. Some of the participants indicated that advocacy and activism from groups external to universities (issues were brought up with respect to in-house advocacy groups) is important to support victim-survivors through the disclosure and reporting processes. One participant acknowledged that expectations of what constitutes efficient change and reform differ between activists and student victims of sexual violence, and university administrators, and experts. Other participants expressed desire for a third party to act as a support person and provide assertive, fierce, feminist, and legal advocacy when engaging in formal reporting and investigatory processes at the university level: to be present, to watch and know the rules and to speak up for the victim when necessary. The organisation End Rape on Campus Australia is specifically mentioned as being “so supportive” for student victims when navigating or seeking advice on university reporting processes. Other advocacy groups mentioned as helpful or supportive include *She’s A Crowd*² and *The STOP Campaign*.³

2. Require universities to maintain public (de-identified) records of the disclosures and reports of sexual violence they receive, and any/all outcomes, as well as the actions they implement to address the issue in general. This will help to improve transparency, accountability, and be a potential measure of success in relation to the implementation of recommendations proposed by external stakeholders.

In my interviews with 10 student victims of sexual violence in university settings, several participants revealed that they want universities to not only inform them of what action they were taking against (alleged) perpetrators following their formal report, but also to show, publicly, what actions they were taking against perpetrators more generally and what they were doing to tackle the issue of sexual assault on campus. Some stressed that student victims will not come forward to make a report if they perceive that nothing will happen as a result. Others wished that universities would publish information on how many reports of sexual assault and harassment they receive each year, the outcomes, and the disciplinary and/or educative action/s that have been imposed. Participants indicated that making this information available would enable victims

² *She’s A Crowd* is a feminist organisation striving to end gender-based violence by using victim-survivor stories as data to inform change.

³ *The STOP Campaign* is a charity organisation working towards Australian tertiary learning communities that are free from sexual violence.

to make fully informed decisions about disclosure and reporting. Participants expressed that, anyone thinking about disclosing explicit details of terrible things experienced at a university, should have a right to know the likely consequences and outcomes of doing so.

Recommendations:

1. The Australian Federal Government should establish an independent, expert-led Taskforce to oversee, monitor, and publicly report the progress of Australia's universities in addressing campus sexual violence. This Taskforce should be focused on accountability and transparency. It should include a mandate to ensure that universities comply with specified minimum standards regarding prevention of and responses to sexual violence; investigate complaints appropriately; and deliver enforcement where minimum standards are not met. The Taskforce should be independent of universities, have authority to compel institutional transparency regarding incidents and responses, and be able to implement sanctions when universities do not comply with minimum standards. These recommendations are based on the repeated recommendations made by EROC Australia and Fair Agenda.
2. The voices of students – particularly victims of sexual violence and students from underrepresented communities – should be embedded within existing internal university governance and decision-making bodies that are responsible for addressing any aspect of how a university intends to handle disclosure and/or reports of sexual violence. Students should be invited to provide their input to the decision-making processes, to ensure that their needs, interests, and expectations are considered, particularly in relation to student wellbeing and safety.
3. The Australian Federal Government should fund advocacy groups dedicated to preventing sexual violence in university settings – such as End Rape on Campus Australia. Such advocacy groups should be external to universities and peak governing bodies.
4. Australian universities should be required to publish annual reports setting out the number/type of disclosures and reports received regarding sexual assault and sexual harassment, as well as the outcomes and disciplinary action/s taken.

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