

Consultation: National Higher Education Code to Prevent and Respond to Gender-Based Violence.

Full Stop Australia Submission, July 2024



Full Stop Australia acknowledges the Traditional Custodians of Country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them, their cultures and their Elders past and present.

About this submission

Full Stop Australia thanks the Australian Government for giving us the opportunity to comment on the *National Higher Education Code to Prevent and Respond to Gender-Based Violence: Issues Paper (Issues Paper)*. We look forward to working collaboratively with the Government and other stakeholders to develop a National Higher Education Code to Prevent and Respond to Gender-Based Violence (**National Code**) that meaningfully improves student safety and provider accountability.

This submission was prepared by Emily Dale, Head of Advocacy. If you have any questions in relation to this submission, please do not hesitate to contact Emily Dale at emilyd@fullstop.org.au.

This submission uses the term *sexual violence* as a broad descriptor for any unwanted acts of a sexual nature perpetrated by one or more persons against another. This term is used to emphasise the violent nature of all sexual offences and is not limited to those offences that involve physical force and/or injury.

About Full Stop Australia

Full Stop Australia is a nationally focused not-for-profit organisation, which has been working in the field of sexual, domestic, and family violence since 1971 through:

- Providing expert and confidential telephone, online and face-to-face counselling to people of all genders who have experienced sexual, domestic, or family violence, and specialist help for their supporters and those experiencing vicarious trauma
- Conducting best practice training and professional services to support frontline workers, government, the corporate and not-for-profit sector
- Advocating to governments and in the media for laws and systems that better respond to, and ultimately prevent, gender-based violence.

Our advocacy draws upon the expertise of our trauma-specialist counsellors, who support people impacted by sexual, domestic and family violence across the country. It also draws on the lived expertise of our clients and survivor-advocates in our National Survivor Advocate Program.

Full Stop Australia commends the creation of a National Code

Full Stop Australia commends the Government for its work to ensure higher education and student accommodation providers will be held accountable for addressing gender-based violence.

Sexual violence at Australian universities is currently at crisis point. The 2021 National Student Safety Survey found that 1 in 6 university students had experienced sexual

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harassment, and that 1 in 20 had experienced sexual assault, in a university context.¹ The prevalence of sexual violence at Australian universities, and the institutional barriers victim-survivors face seeking support and action, point to deep cultural problems and a dearth of safe and appropriate processes for addressing sexual violence.

We hope that a National Code will help improve this situation, by creating uniform safety standards all higher education providers must comply with.

Changes to strengthen the National Code

While we are broadly supportive of the standards proposed for the National Code, we think they could be improved in several respects—to better centre victim-survivor safety and agency, and improve accountability for higher education providers.

Rather than responding to the consultation questions in the Issues Paper, we have commented below on the proposed standards set out in the Issues Paper.

Accountable governance and leadership

We support the intention behind this standard, which is to ensure standards of good governance apply to higher education providers, and leaders and governance bodies are held accountable for their compliance with standards.

We make the following comments about this section:

- One of the proposed expectations of providers is that ‘the governing body and leadership continually demonstrate collective accountability for preventing and responding to gender-based violence.’ We think the term ‘collective accountability’ is unclear and should be defined.
- The Issues Paper suggests that accountability should apply to a range of relationships and spaces, including student accommodation, and research and industry partnerships. We strongly support this broad approach to governance and accountability. In relation to research and industry partnerships, Full Stop Australia is aware of instances where universities have been reluctant to enforce behavioural standards on workplace placement providers, due to the highly competitive nature of such placements. This problem can be especially prominent in rural, regional and remote areas, where there aren’t many placement opportunities. We support research and industry partnerships being a focus area for compliance, as this is currently presenting a barrier to safety for students and staff.

¹ Heywood, W., Myers, P., Powell, A., Meikle, G., & Nguyen, D. (2022). *National Student Safety Survey: Report on the prevalence of sexual harassment and sexual assault among university students in 2021*. Melbourne: The Social Research Centre.

- We strongly support the proposed setting of annual KPIs for senior leaders, linked to prevention and response activities, and the proposed publication of annual reviews.
- There should be specific requirements around the monitoring of this standard. For example, will the Department of Education have a role in ensuring higher education providers are complying with governance and accountability requirements.
- There should be specific requirements around consequences for non-compliance with governance and accountability requirements.

Effective organisational policies and practice

We support the intention behind this proposed standard.

We think it could be strengthened by:

- Requiring the existence of power imbalances to be explicitly considered and addressed in the policies of higher education providers. Through our work in the tertiary sector, Full Stop Australia is aware of how commonly the existence of power imbalances creates conditions in which sexual violence can occur. For example:
 - Where a staff member supervises a student's work, and this work occurs without much oversight from the university—which may occur in the context of a PhD thesis.
 - A university camp, attended by first-year students, whose student leaders are fourth-year students.
- There should be a requirement to specifically focus on high-risk contexts and intersectional needs. For example, international students, students in regional towns, students taking part in industry placements, and PhD students being closely supervised by a single staff member may be disproportionately at-risk of sexual violence.
- Students taking part in student societies, clubs and unions, or attending extracurricular events or camps, can be at disproportionate risk of violence—especially where there is alcohol involved. There should be a requirement to have a specific policy on this, which contains standards of conduct for student leaders in those settings.
- The National Code should require higher education providers to regulate the conduct of third-party contractors—such as security companies. Through Full Stop Australia's work in higher education, we are also aware of this as a high-risk space.
- We strongly support the prohibition of the use of non-disclosure agreements unless requested by a victim-survivor. We support the requirement that all higher education providers have a policy on this matter.

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- The focus of this section is organisational policies, not contracts industrial agreements. Full Stop Australia is aware of cases where industrial agreements and contracts contained provisions that didn't prioritise the safety needs of victim-survivors of sexual violence. Consideration should be given to including core requirements with regard to contractual arrangements in the National Code.

Trauma-informed, safety-first procedures

We support the intention to provide a focus on trauma informed approaches as best practice in response to victim survivors.

We note that disclosures or request for assistance are likely to be made in a wide variety of contexts to a vast array of people or response points (eg email addresses, websites etc) across university activities. Initially response to disclosures are critical to victim survivors feeling believed and acknowledged and getting support to take any next steps to seek support or pursue formal mechanisms and reporting. Initial responses are critical to building trust and enabling timely responses that can address initial distress and urgent need. This process is quite different

In combining these two elements into the standard, it may reinforce the assumption that the only response to a disclosure or request for help can be through a formal complaints mechanism. We know through our work with victim survivors that they may not wish to pursue a formal process, which should not stop them from receiving a caring, empathic and trauma informed response.

The standard would benefit from being separated into two sections OR having a separate standard:

- Trauma informed response
- Trauma informed procedures (complaints and investigation)

This would highlight the critical role that universities as a whole and across all elements of the organisation can play in responding wherever disclosures are made in ways that meet the victim survivor where they are at when they disclose or seek assistance, rather than assuming that the pathways is a given. It's important, when talking about trauma-informed procedures, to not just focus on formal complaints processes as the only way to respond.

We note that the standard refers to 'cross examination'. It is troubling that this continues to be an accepted process used in formal complaints handling mechanisms – these are not legal proceedings. It would be appropriate to review this in the context of clarity about the standard of 'proof' required in complaints investigations. In our view, the practice 'cross examination' as part of an investigation/ complaints procedure creates risk to the safety and wellbeing of victim survivors and is rarely conducted in a trauma informed manner.

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We recommend further work be undertaken to explore how response/reporting and investigation/complaints procedures could be dealt with in the standards (possible as two separate standards or two sections of the same standard) and at a high level consider:

- Mandatory availability of anonymous reporting mechanisms
- The National Code should require a standardised approach to be taken to evidence collection, as part of a sexual misconduct investigation, across institutions. Currently, higher education providers can dictate what information and evidence they require as part of an investigation. Taking a standardised approach to this would be more trauma-informed, giving victim-survivors clear standards of what to expect in an investigation.
- Victim-survivors should be given choice and agency about reporting – this might look like a range of reporting options (from in-person, to speaking to someone on the phone), and flexibility regarding when and how they report.
- The possibility of delayed reporting—which evidence suggests is extremely common for sexual violence—should be factored into higher education provider policies.
- Victim-survivors should be given pathways to engage with reporting sexual violence through their supporters—for example, a trusted friend or counsellor. This removes the emotional burden of reporting violence from victim-survivors.
- The Code should require anyone who might receive a report of sexual violence to have specialist training in compassionate responses, trauma informed response and the gendered drivers of sexual violence. Intensity and duration of training should be linked to role exposure to student disclosures.

Expert and timely support services

We support the intention behind this proposed standard.

We recommend the following additions:

- There should be clear referral pathways to critical services that sexual violence survivors need – such as counselling, medical care and forensic examination. We support the advocacy of student-led organisations, including the STOP Campaign and End Rape on Campus, to re-establish the university crisis line. This is an important way of giving victim-survivors direct and immediate support.
- The standard should set out the type of support services that should be available, including the importance of specialist sexual violence support (preferred over the term expert led) and consider the role of peer support
- Higher education staff need to be trained to spot the signs requiring early intervention. This includes staff who interact regularly with students—for example student life, safer communities, and pastoral care staff.

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Safe student accommodation

We strongly support student accommodation owned or operated by higher education providers being subject to the National Code, noting that student accommodation is an especially high-risk space for sexual violence.

It is critical that standalone student providers are subject to regulation, oversight and behavioural standards. Through Full Stop Australia's work offering training and consulting services to higher education providers, and support to victim-survivors, we've been made aware that these are some of the riskiest and most unregulated spaces where sexual assault and other forms of gender based violence occur, often without effective response, investigation or support.

We note that standalone accommodation providers are not covered by the National Code, but that the Government is currently 'exploring options for a new regulatory framework on these providers.' This is urgent work, given the extremely high risk these providers pose. We ask to be consulted on the development of this framework and that the Government commit to specific timeframes for the delivery of the framework.