



NATIONAL HIGHER EDUCATION CODE TO PREVENT AND RESPOND TO GENDER-BASED VIOLENCE

June 2024

University of the Sunshine Coast submission

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Context

In May 2024, the Department of Education released an [Issues Paper](#) to inform feedback on the National Higher Education Code to Prevent and Respond to Gender-based Violence (the National Code). Feedback was invited from stakeholders on the proposed standards and requirements, whether any additional standards need to be considered, how to ensure the National Code aligns with education regulations and broader regulatory frameworks, and additional guidance materials needed to support providers' implementation.

UniSC's response was developed through consultation with the UniSC Sexual Violence Prevention Task Force, which involves representatives from staff, students, and external members of UniSC's community with specialist expertise, including police and local sexual violence services.

We welcome the opportunity to discuss any aspect of our submission in further detail. If this is of interest, please contact Jason Mills, Head of Government Relations, on jmills3@usc.edu.au or 0415 950 619.

If the topics in the Issues Paper raise any concerns for you, you can access support and advice about domestic, family and sexual violence through 1800RESPECT (1800 737 732) or visit the [1800RESPECT website](#). This is a free, confidential service available 24/7.

Response to the Issues Paper

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?

UniSC broadly supports the proposed definition of gender-based violence; however, in the second limb of the definition, it would add greater certainty if it included a reasonableness test (i.e. 'or is [reasonably] likely to...') to ensure greater confidence in the application of this limb of the definition.

We are pleased to see the Issues Paper reference physical and non-physical forms of violence, the impact of gender-based violence on LGBTIQ+ people, the application of an intersectional lens, and acknowledgement that gender-based violence impacts both staff and students. It would strengthen the definition if these broader considerations were incorporated into the definition itself.

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)?

The Department should provide a mapping document cross-referencing the standards in the National Code with the Higher Education Threshold Standards, ESOS Code and requirements under the Support for Students Policy.

The Department should provide greater clarity on how the Code will interact with relevant federal and state legislation and regulation to help providers understand their obligations under the Code versus other laws and regulations e.g. state workplace health and safety acts.

The Department should provide greater clarity on the reporting requirements, including giving consideration for providers to report their progress towards implementing the standards in the National Code through one channel (e.g. aligned with reporting requirements under the Support for Students Policy legislation or as part of mission based compact reporting processes).

Many providers now have action plans addressing sexual violence prevention and it would be beneficial for them to expand on those action plans to incorporate strategies to prevent gender-based violence. The supporting materials provided by TEQSA to guide providers in the preparation of their action plans in response to the RFI on GenAI and Academic Integrity is a good example of how the Department could support providers in responding to the requirements of the National Code.

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 what they are, and why.

The proposed standards address a whole-of-university approach, underpinned by accountable governance and leadership, and embedded in policy and practice.

We agree providers must have policies and procedures in place to ensure staff and students engage in appropriate training and have strategies in place that seek to prevent and mitigate risks relating to gender-based violence as well as services that are trauma-informed to ensure victim-survivors are safe and supported in a timely manner (including in student accommodation). However, while providers can educate their staff and students on strategies that can help to keep them safe and the support available to them if they experience gender-based violence, they cannot be held responsible for gender-based violence in contexts outside of their jurisdiction (e.g. standalone student accommodation providers, domestic family violence situations, and community contexts unrelated to university study, placement locations or situations where staff or students are attending work related events).

The focus on transparent data and reporting is appropriately reflected in the standards, but as noted in response to the previous section, providers need much greater clarity on the expectations regarding reporting mechanisms.

The standards should provide greater clarity around the responsibility of providers to engage in restorative justice where both parties agree and provide clear expectations on how providers ensure the safety and wellbeing of all impacted parties.

4. What additional requirements should be included for each Standard? Please detail for each Standard and why.

Standard 1 – Needs to clarify the ‘standalone report’ aspect of the proposed requirement “conduct annual performance reviews of the whole-of-organisation approach and publish these reviews in the form of a standalone report”, e.g. is this to be published on the provider’s website or submitted to the Department, or both?

Standard 2 – The proposed definition should recognise the importance of managing the safety of alleged perpetrators, e.g. “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 **and ensures the safety of alleged-perpetrators**”.

Standard 3 – Should ensure alleged perpetrators are afforded procedural fairness and natural justice to ensure provider processes do not undermine or interfere with criminal processes. Perhaps by expanding on the requirement “uphold procedural fairness **and natural justice, including for alleged perpetrators**”.

Standard 5 – With respect to provider referral pathways to external services and after-hours support, the requirements must recognise that in some locations, particularly in regional and remote communities, there can be limited availability of external specialist services, which can impact accessibility and responsiveness.

Standard 6 – Requires greater clarity on the data and reporting expectations of providers, including the potential use of a nationally consistent reporting template.

Standard 7 – Requires greater clarity on the level of responsibility expected of providers where they do not own or manage the facilities.

5. How should standards account for providers' size, student and staff profile and location/s (including regional, metropolitan and Australian and international campuses)?

Consideration needs to be given to implications of the proposed standards on smaller, regional universities and their capacity to implement reporting systems if there is an expectation that these costs flow to the provider. The provision of a unified reporting platform would be beneficial providing this cost is not borne by the provider.

The Department should develop and provide nationally consistent provider training materials for staff and students to ensure consistency and to avoid disadvantaging smaller providers with limited resources.

Regional and remote communities are often limited in the availability of external specialist services for referrals. Consideration should be given to how governments can better resource community services in regional locations to have the capacity and expertise to support victim-survivors and perpetrators.

6. Recognising student accommodation settings are high-risk environments, are there additional considerations for these providers under the National Code?

Further consideration is required on complexities associated with providers who do not own or manage student accommodation. There needs to be greater clarity about the extent to which providers are held to account for victim-survivor safety where they have no jurisdiction over standalone accommodation providers.

The Government should regulate how accommodation providers advertise their services. UniSC can cite examples where private accommodation providers promote their facilities as student accommodation with no transparency around the accommodation arrangements – students are of the expectation that these facilities are exclusively for students, even though the accommodation facilities are available to the general population.

7. Beyond the National Code, what additional resources and materials would be required by providers to support implementation and ongoing compliance?

As noted previously, there should be more specific mapping of the proposed standards with other regulatory frameworks, nationally consistent training materials for providers, staff, and students, and the development of a unified national reporting system.

8. What else needs to be considered in the Department's approach to regulating the National Code?

Greater clarity is required on the following:

- Consequences for providers deemed to have breached the Code, e.g. what is deemed a minor or serious breach?
- Implementation timing and any transition period.
- Practical legal implications given variations across state and national industrial laws and provider enterprise agreements, e.g. will the Code confirm order precedence/priority where there are contradictions between the Code expectations, state and national laws and enterprise agreements?
- Resourcing impacts on smaller providers.
- Prevention requirements and how these will be implemented and evaluated.
- Scope of provider responsibilities with regard to contractual arrangements with third-party providers.

9. How often should the National Code be reviewed and updated?

Every three years initially, before reverting to 5-year cycles.

10. What are examples of good practice that can be drawn on to inform the design and implementation of the National Code?

As noted previously, the resources provided by TEQSA to support providers to develop their action plans to address the risks posed by GenAI and Academic Integrity are good examples of the way the Department could support to providers in developing action plans that outline strategies required to meet the proposed standards in the National Code.

UniSC demonstrates commitment to leadership and high-level governance in its frameworks focused on primary prevention and risk mitigation strategies and managing allegations of misconduct including ensuring procedural fairness, safeguarding victim-survivors and alleged perpetrators and trauma-informed response and support for all affected parties. UniSC also demonstrates transparency and accountability through its quarterly reports on allegations of misconduct and student wellbeing matters, which are also reported on a regular basis to the University's Audit and Risk Management Committee, as well as published in annual reports. UniSC is a signatory to the UA Charter against Sexual Harm and works closely with third parties including Laurel Place, which is a community-based, government funded, free, confidential service specialising in sexual assault support and counselling, the Queensland Police Service, Zonta, and local privately owned accommodation providers.