

RUSU Response to National Higher Education Code to Prevent and Respond to Gender-Based Violence Issues Paper

Thank you for the opportunity to provide feedback into the consultation process. Answers to the questions posed in the consultation template are detailed below.

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?

Intersectionality – in the definition of who can experience gender-based violence (GBV).

Online/digital forms of harm – in the definition of where gender-based violence can occur

What constitutes harm – the definition should include emotional and psychological violence, verbal abuse, confinement and socio-economic violence.

Historical harm – the definition needs to recognise that victim/survivors may have experienced historical gender-based harm and that universities can play a key role in supporting these students/staff.

Power imbalance between students and staff at universities. The definition of gender-based violence needs to specifically recognise the power imbalance that exists between students and staff in universities, and the potential for this power imbalance to be exploited.

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)?

Privacy is of key concern here. The National Code should require higher education providers to have a register of all areas in which disclosures are received – this includes disclosures outside of Safer Community style units, such as student disclosures given during special consideration or academic progress processes, and potentially reflection-based assessments that require students to reflect on their own experiences.

Higher education providers must supply as part of their ongoing compliance documentation, information on how these disclosures are managed in accordance with privacy legislation including flow charts of how disclosures flow through the organisation (particularly in the less traditional disclosure points mentioned above), who has contact with the disclosures and who is responsible for the proper management and disposal of these disclosures.

Universities should face consequences for mishandling information disclosures. In addition to this the Code should be broad enough in scope to require regulating bodies such as TEQSA and Universities Australia to be required to report on the specific actions they are taking in support of the 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.

In order to protect and promote the safety of students and staff, victim/survivors must have recourse to an external appeal/complaint/review mechanism for a Higher Education Provider’s (HEP’s) management of their disclosure. If this is to be the National Student Ombudsman, the National Code should explicitly state this. The penalties for HEPs who have failed to follow the National Code, education regulations, and/or broader regulation frameworks in their management of disclosures of GBV should be clearly outlined.

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

All standards require explicit and robust measures for quality assurance and continuous improvement plus embedding the voice of victim/survivors at the very center of the quality assurance and continuous improvement processes. The National Code should require HEPs to report not only on their performance against metrics such as rate of incidence but also about how students and staff making disclosures felt during the process. There are multiple ways this kind of feedback can be folded into the standards and can impact quality assurance – restorative engagement processes, anonymous surveys, a separate complaint process specifically for students/staff who are unhappy with the way their disclosure was managed etc.

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

Require HEPs to have the same standards for reporting and compliance for all campuses – including regional and international campuses. The Code should require HEPs to only offer programs through other international education providers that have rigorous policy and processes in place for supporting victim/survivors. This would also apply to HEPs offering onshore programs through Open Universities Australia or fully online programs and/or short courses where students may be less aware of support services that are available to them through their HEP.

Whilst the issues paper specifically calls out clinical placements as high-risk environments for GBV, all student placements carry a significant risk. The Code should require Universities to work with placement providers who have clear processes and policies in place for the prevention and management of GBV in the workplace, pre-placement training should include information on reporting and escalation points for students on placement.

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

How to safely share information between purpose-built student accommodation providers (PBSAs) and higher education providers. Can the code require sharing information about incidences of GBV as a requirement of a tender agreement between PBSAs and HEPs. In addition to this, there needs to be consideration of if/how HEPs would share information about staff or student perpetrators moving between institutions.

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

The completion of a National Student Safety Survey every 2-3 years to provide independent data and trends around GBV at Australian universities. The continuation of a national, independent study will provide universities with key data on the implementation of the National Code within their institutions and nationwide, and help to drive further discussion on sector wide improvements.

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

Accountability is key

Work must be done to ensure universities and especially university leaders, are held accountable for complying with the National Code. The aim should be to ensure universities view compliance with the National Code as a catalyst for comprehensive organizational change, rather than merely a procedural requirement. There needs to be consequences for universities that do not take steps to prevent GBV or respond appropriately to students and staff making reports of gender-based harm.

Intersectionality

Intersectionality is a critical issue around gender-based violence and it is good to see it specifically referenced in the Issues Paper. Universities should be required to create reporting frameworks that reflect an awareness of how intersectional people report violence and the unique issues they face in reporting. Where policy and procedure fails to recognise the unique experiences of intersectional people, there is a risk of increased harm and trauma when negotiating reporting processes.

Help seeking within universities

Whilst there will be cases of gender-based violence within the university community (i.e. involving a combination of students and or staff), many students will experience GBV outside of the university community but will still require flexibility and support to continue their studies. Often, for these students, the first point of disclosure is a request for special consideration, late special consideration or as part of an academic progress process. These processes are not designed to respond to students in a trauma informed and victim/survivor focused way. They are often complex and bureaucratic, with an emphasis on disclosure rather than support, at worst they are hostile and re-traumatising to students. After experiencing a traumatic event, students are more likely (in the short term), to approach their university to deal with the impact of the trauma on their studies than manage the ongoing impacts of the trauma itself. These early approaches and requests for academic support are a way in which the student will, in effect, test the water about whether it is safe to make fuller disclosures. Monitoring how this happens and ensuring that students feel welcomed and safe to make fuller disclosures is a critical issue which is not addressed, but which may fall more within the sphere of the Support for Students Policy reporting requirements. Nevertheless, asking HEPs to undertake analyses of whether these initial contacts are supportive and how they affect the trajectories of students who have later made disclosures is important to driving future quality assurance.

Training

National standards must specify what is required for training, how frequently it should occur, and who should conduct it. Those responsible for training should be experts in the field rather than relying on an in-house training program. Training programs must encompass full responders and individuals who may initially receive disclosures, including administrative staff, specialized consultants, etc.

Implementation

Implementation of the National Code should involve active participation from students and staff. If institutions have implementation committees, students should be included in discussions. They should also participate in ongoing reviews of Higher Education Provider (HEP) performance against the Code and as part of internal quality assurance processes.

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

Every three years (hopefully) to align with the release of National Student Safety Survey data. Allowing the Department, HEPs, staff and student groups to have a meaningful, data driven discussion on the impact of the Code, the effectiveness of its implementation by HEPs and potential changes to benefit student and staff safety.

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

RMIT has already moved to provide better support for victim/survivors in the following ways:

- 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
- deliver regular training to all staff 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 support services that are expert-led and trauma-informed
- publish standalone reports on the progress of its whole-of-organisation approach to prevent and respond to gender-based violence