

# Submission to the Inquiry into the Universities Accord (National Student Ombudsman) Bill 2024 [Provisions]

October 2024



## On behalf of Australia's 39 comprehensive universities, Universities Australia (UA) welcomes this opportunity to contribute to the Inquiry into the Universities Accord (National Student Ombudsman) Bill 2024 [Provisions].

Australia's universities are deeply committed to fostering safe, respectful and inclusive cultures across both physical and digital campuses, with a clear focus on enhancing the student experience and wellbeing. The sector remains dedicated to collaborating with stakeholders to continually improve the university experience for all students.

UA welcomed the announcement on 11 September 2024 of legislation to establish an independent National Student Ombudsman (NSO), recognising it as an important step in ensuring students receive support throughout their studies. UA firmly supports the creation of the NSO to address student support and wellbeing, and address gender-based violence, in line with its original purpose. It is crucial that the NSO is established within a reasonable timeline to ensure it can begin fulfilling its important safety and wellbeing functions in 2025.

However, UA is concerned that the scope of the proposed Bill differs significantly from the NSO's original intent. This broader remit may affect the appropriateness and success of the NSO's responsibilities and could delay its timely implementation. We are particularly concerned that the expanded role may impact the NSO's effectiveness in serving as a final avenue for addressing student safety and wellbeing in universities.

UA and its member universities have engaged in extensive consultations with the Department of Education on the Action Plan Addressing Gender-based Violence in Higher Education, including the introduction of the NSO. Our response to the draft Action Plan is available on the UA [website](#).<sup>1</sup>

Since the consultations with the Department of Education in June 2024, the proposed remit of the NSO has expanded to include matters beyond gender-based violence and sexual harm, raising concerns about how well the NSO can fulfil its intended purpose. To ensure its successful establishment, it is critical to take the time needed to carefully scrutinise the NSO's proposed functions, scope and obligations as outlined in the Bill.

UA recommends extending the inquiry deadline and providing opportunities for additional, expert-informed submissions to ensure the Committee receives comprehensive input. This process will allow UA to fully understand the positions of our members and seek advice from other organisations to help shape an NSO that supports students effectively without unintended consequences.

Given the complexity of the NSO's proposed functions and the limited time for detailed recommendations, UA has made several initial observations. These emphasise the importance of clear boundaries for the NSO's scope and remit, ensuring it operates within its intended scope and does not overlap with other authorities. This clarity will be essential for the NSO's success in supporting students and maintaining good practice.

We have made four observations in this submission and are committed to working constructively with parliamentarians, government and key stakeholders to achieve positive outcomes for students.

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<sup>1</sup> [UA response to the consultation on the draft Action Plan addressing gender-based violence in higher education – Universities Australia](#)

**Initial observations of the Bill:**

UA is fully supportive of the establishment of an NSO with a clear focus on student safety and wellbeing. While we recognise the importance of moving swiftly, we believe that a careful review of the proposed legislation will ensure the NSO can function effectively within its intended scope. Clarifying its remit and ensuring collaboration with existing bodies will be key to its success.

1. The Bill should clearly stipulate that all stages of a university's internal complaint avenues must be exhausted prior to a referral to the NSO. Clarifications on the threshold for substantiating anonymous complaints and circumstances in which a student may lodge a complaint with the NSO directly are also needed.
2. The NSO should operate within clearly defined parameters to ensure a collaborative coexistence with existing regulatory bodies (state and federal), and the preservation of the integrity of the tertiary education sector.
3. The NSO should not have the authority to redefine its scope to address excluded matters such as employment or academic judgment.
4. The Government adopt a funding model similar to TEQSA, which includes the Government funding core activities with a cost-recovery model for institutional-specific investigations.

**Observation 1: The Bill should clearly stipulate that all stages of a university's internal complaint avenues must be exhausted prior to a referral to the NSO. Clarifications on the threshold for substantiating anonymous complaints and circumstances in which a student may lodge a complaint with the NSO directly are also needed.**

UA fully supports the NSO's role as an escalated complaint-handling body. However, to ensure the effectiveness of this process the Bill should clearly state that students must first go through all stages of a university's internal complaints process before raising a complaint with the NSO, unless the university's processes have led to delays in addressing the complaint.

We also suggest the Bill provide further clarification on how anonymous complaints, and complaints made under a pseudonym, will be handled. Establishing clear assessment guidelines will help protect the integrity of the process and ensure both students and providers are treated fairly.

Additionally, the Bill should outline specific guidelines for cases where a student can directly approach the NSO without having exhausted all other avenues, ensuring consistency and fairness in their application.

**Observation 2: The NSO should operate within clearly defined parameters to ensure a collaborative coexistence with existing regulatory bodies (state and federal), and the preservation of the integrity of the tertiary education sector.**

UA fully supports the creation of the NSO as an independent body to oversee student safety and wellbeing. To ensure its success, it is important that the NSO's remit is clearly defined and does not overlap with the responsibilities of other regulatory bodies such as state ombudsmen, the Administrative Appeals Tribunal, Human Rights Commissions, and other administrative appeals bodies at state and federal levels, avoiding duplication of effort and unnecessary resource strain on institutions.

In addition, matters such as academic judgment – including course administration, teaching provisions and facilities, research supervision, granting of special considerations and reasonable adjustments – should remain outside the NSO's remit to protect the autonomy of universities and uphold academic freedom.



The granting of reasonable adjustments is an example of matters included in the proposed NSO that impact on academic judgment. The [Australian Disability Clearinghouse on Education and Training](#) website states that the Disability Standards for Education acknowledge that expert assessment is required to guide the process of determining reasonable adjustments, and in determining a reasonable adjustment, it is essential that the academic integrity of the course is maintained.<sup>2</sup> This requires the application of academic judgment.

The NSO is further proposed to have the remit to investigate policies and procedures that guide academic decisions. The proposed remit of the NSO to cover investigation of these matters risks undermining institutional autonomy and academic freedom. The [French Model Code review](#) which the Commonwealth Government asked universities to adopt in 2019, defines academic freedom as “autonomy of the higher education provider in relation to the choice of academic courses and offerings, the ways in which these are taught and the choices of research activities and the ways in which they are conducted.”<sup>3</sup> The [National Action Plan](#) recognised the importance of keeping academic and safety and wellbeing matters separate.<sup>4</sup>

We recommend that the Bill ensure the NSO’s role is focussed on matters of student wellbeing, leaving academic matters to appropriate authorities.

**Observation 3: The NSO should not have authority to redefine its scope to address excluded matters such employment or academic judgment.**

While UA understands the need for the NSO to adapt to sector trends, we believe that changes to its remit should be carefully considered and subject to a review process. This will ensure the NSO remains focused on its core function of supporting student wellbeing. Any potential expansion of its role should involve consultation with stakeholders and a formal review to ensure it aligns with the NSO’s original purpose.

Also, we believe that if a student chooses to withdraw a complaint, the matter should be considered closed. However, sharing information with TEQSA for regulatory oversight in ensuring providers are meeting the Threshold Standards may still be appropriate.

**Observation 4: The Government adopt a funding model similar to TEQSA, which includes the Government funding core activities with a cost-recovery model for institutional specific investigations.**

UA acknowledges the importance of ensuring the NSO is well-resourced to carry out its functions effectively. To ensure a sustainable funding model, we recommend that the Government adopt an approach similar to TEQSA, where core activities are government-funded and cost recovery is applied only for investigations specific to individual institutions. This approach ensures that universities are not disproportionately burdened by the costs of NSO operations, particularly in instances where broad investigations or initiatives are undertaken that do not directly relate to individual providers.

UA welcomes further discussion with the Government on this matter and looks forward to collaborating on an appropriate funding model that supports the NSO’s vital work.

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<sup>2</sup> [Reasonable Adjustments - ADCET](#)

<sup>3</sup> [Independent Review of Adoption of the Model Code on Freedom of Speech and Academic Freedom - Department of Education, Australian Government](#)

<sup>4</sup> [Action Plan Addressing Gender-based Violence in Higher Education - Department of Education, Australian Government](#)