



UNSW Submission

National Higher Education Code to Prevent and Respond to Gender-based Violence - Issues Paper

UNSW Sydney welcomes the opportunity to comment on the National Higher Education Code to Prevent and Respond to Gender-Based Violence (the Code) Issues Paper.

We strongly support action which contributes to a positive, safe and rewarding experience for all who engage with universities in Australia.

Throughout this response, GBV refers to Gender-Based Violence.

UNSW Position

UNSW is committed to preventing gender-based violence (GBV), supporting the safety and security of students and staff.

All GBV is unacceptable, including that which occurs on campus. We share the vision of government of eliminating GBV on Australian university campuses, and within the wider community, within one generation.

However, GBV is a whole-of-society issue. The Code must not transfer to universities, or replace, the responsibilities of government, and wider society to address GBV.

UNSW at-a-glance

1. One of the first universities in Australia to implement dedicated online sexual misconduct reporting enabling fully anonymous reports.
2. First university in Australia to publish an annual report documenting GBV prevention, activities, reports received and response to report; annual reports are available online.
3. A dedicated UNSW *Gendered Violence Strategy and Action Plan 2022-2025*.
4. Safer Communities Team to coordinate the University's whole-of-community efforts to prevent GBV.
5. Specialist capacity to respond to students impacted by GBV, within student services.
6. Governance of GBV projects supports extensive staff and student consultation.
7. Regular review of our approach to response.
8. Dedicated Policy and Procedure for the prevention of and response to sexual misconduct, with a refreshed policy in relation to GBV to be implemented by end of 2024.
9. Signatory to the Universities Australia Charter on Sexual Harm, expressing our commitment to preventing sexual harm and responding appropriately to sexual harm reported.
10. SpeakUp awareness-raising strategy, with the goal of creating an institutional culture of respect and integrity so that the UNSW community knows acceptable behaviours, and when and how to raise concerns when behaviours fall short and feel safe and supported when doing so.

2023 at a glance



Leadership, Governance, Commitment and Resourcing

- The Gendered Violence Steering Committee was reviewed, and the decision was made to form the Safer Communities team in 2024.
- \$50,000 worth of grants allocated to support gendered violence prevention efforts.



Communication

- Senior leadership statement on prevention of gendered violence as a priority at UNSW.
- 1,000 A3 Snap frames and posters installed in bathrooms across campus featuring a gendered violence related message.
- Funding for the development of the SpeakUp campaign that aims to encourage reporting and allow students and staff to raise concerns about all forms of unacceptable behaviour.



Education

21,346 students responded to an ELISE

quiz question related to gendered violence and 3038 students completed the gendered violence module.

3695 staff completed the sexual misconduct awareness and response module.

1772 students actively engaged in SEtember events or workshops.



Transparency

4 Annual reports on Sexual misconduct/ gendered violence (2020, 2021, 2022, 2023)

75 reports indicated the incident occurred on a UNSW campus; this represents 42% of the total reports.

- 19 reports indicated that the incident occurred online, 7 reports referred to incidents that occurred on a UNSW platform online.
- An additional 19 reports (10.5%) documented an incident occurring off-campus connected to UNSW event or activity.
- One incident could result in several reports; around 151 individual incidents were reported in 2023, based on 180 reports.
- 22% of reports were categorised by the reporter as sexual assault, while another 22% were categorised as sexual harassment.
- 81% of affected individuals were reported to be students.
- 88% of incidents described as occurring in 12 months of being reported.
- 164 de-identified reports were received from UNSW Psychology and Wellness (in addition to the 180 portal reports).



Cultural Change

16 UNSW staff trained to deliver MATE Bystander workshop

11 gendered violence grants given by the Vice Chancellor's office to drive progress towards a safer and more respectful campus.

Snapshot from [UNSW 2023 Annual Report Gendered Violence Prevention & Response](#)

Executive Summary

UNSW is positioned to meet the Code, as proposed.

The key points of the UNSW submission responding to the issues paper are:

- 1) GBV is a whole-of-society problem. If all HE providers resource the Standards as proposed, there is a risk that the capacity of government and community sector organisations to service the broader community will be reduced, as Universities compete with these organisations for skilled staff. Government must prioritise services which meet the needs of the broader community,
- 2) Universities' focus is education and research; they are not able to replicate expert GBV support, response and prevention functions, which require skilled and experienced staff working within specialised services.
- 3) The proposed definition of GBV is problematic. UNSW experience is that some cohorts are unsure if their experience is covered. Universities must use language which is accessible and meaningful to the University community and cohorts.
- 4) Accommodation providers are key partners in reducing the risk of student's experiencing GBV. Further consideration of minimum standards, student accommodation provider accreditation and enforcement mechanisms is needed to drive change in this sector.
- 5) Reporting data is resource intensive. The primary focus in any National Code should be prevention of harm, and effective response to those affected by incidents. Data and reporting should not be at the expense of supporting those affected by gender-based violence.

Consultation questions – Issues Paper

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?

UNSW started using a definition of 'gendered violence' in 2023; we use gendered violence consistent with terminology adopted by Universities Australia.

UNSW defines the term gendered violence as follows:

"Gendered violence (often used interchangeably with gender-based violence or gender-related violence)... includes but is not limited to sexual misconduct. We understand the term gendered violence to mean 'any type of harm that is perpetrated against a person or group of people because of their actual or perceived sex, gender, sexual orientation and/or gender identity.'

Gendered violence... captures a spectrum of '...violation(s) of human rights,' spanning from hazing, sexualised and racialised bullying, sexual misconduct, including sex-based discrimination, sexual harassment and sexual assault, and in some instances, may constitute a 'life-threatening health and protection issue' (UNHCR 2022), particularly when perpetrated in intimate and family relationships.

Gendered violence also includes domestic and family violence which may also be referred to intimate partner violence, domestic violence and dating violence....

Although studies clearly show that all women (cis and trans), girls and the LGBTIQ+ communities are disproportionately affected, our Strategy responds to the impact of gendered violence on all population groups including cis and trans men and boys."

Extract taken from **UNSW Gendered Violence Strategy and Action Plan 2022-2025, p13.**

A National Code must support Universities to adopt language which is accessible and persuasive for students of all backgrounds and identity. Despite education and awareness-raising efforts at UNSW, our experience indicates that the terms 'Gendered Based Violence', and 'Gendered Violence' require specific education to understand, and are not consistently understood within the University community. Given that students may complete a University qualification within 12 months, there can be limited time available to educate in relation to terminology. Focusing on teaching definitions may not be the best use of education and prevention efforts related to GBV.

Our experience is that using terminology which is not broadly understood then creates barriers to reporting and help seeking. If the term 'Gendered Based Violence' or 'Gendered Violence' is used widely, then it must be recognised that some community-members, who are at increased risk of experiencing violence, may not recognise what they experience as falling under this definition. Feedback from students is that they are unsure how sexual orientation is addressed by GBV definitions, and confused about whether men's experiences are addressed.

Notwithstanding the difficulties of GBV definitions in communicating to staff and students, a shared definition of GBV within the University sector is fundamental to efforts related to accountability and transparency.

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)?

There are aspects to the proposed Standards (as discussed in the Issues Paper) that will be impossible to enact without legislative change, development of further guidance and training for staff.

For instance, Universities or student accommodation providers sharing information regarding an allegation about a student or staff member would currently be considered a privacy breach, if consent to share information has not been given and there is no evidence of significant, imminent risk of harm.

Any such action would need to be supported by clear thresholds defining when sharing information is reasonable. Universities and student accommodation providers would need some form of protection from complaints in relation to sharing private information without consent, in relation to responding to GBV incidents.

It may be useful to consider the approach to mandatory reporting of neglect and abuse of children and young people in NSW. Sharing this information without permission to a government agency is supported by NSW legislation, and Department of Communities and Justice provides a decision algorithm to guide outcomes in relation to specific incidents. Mandatory reporters complete training as part of their education, to understand what they are required to do.

It should also be noted that creating a requirement in relation to sharing information may create the perception that a person reporting what they have experienced will not be able to control how their information is shared. This will result in a barrier to reporting, and accessing support at the University.

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.

There may need to be consideration of how the Standards can be applied in faith-based Universities, where beliefs in relation to gendered behaviours, sexual relationships, sexual orientation and gender identity may conflict with applying the Standards.

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

Standard 1 – Accountable governance and leadership

Linking accountability and leadership in relation to GBV to gender balance and diversity within the organisation is supported.

UNSW meets elements of the proposed Code through:

- a) Accountability and governance arrangements which include a Safer Communities team with whole-of-organisation remit, Student and Staff reference groups and documented and publicly available strategy and action plan;
- b) GBV embedded into the risk management framework of the organisation;
- c) A dedicated office responsible for equity, diversity and inclusion, including the monitoring of gender balance and diversity across UNSW including governing body and leadership team;
- d) Regular reporting of GBV data and prevention activities to the University-wide Safety Committee; and
- e) Annual review of the GBV strategy and action plan and a publicly available annual report.

The proposed Standard could be strengthened through:

1. Guidance in relation to student representation and consultation to support substantive engagement with students.
2. Including clear expectations of education provider accountability in relation to students when they are outside of the University environment, given the increased focus on work integrated learning opportunities
3. Ensuring that reporting obligations do not detract from resourcing prevention-focused activities. Linking public reporting to accountability is worthwhile, but it should be noted that data collection, analysis and reporting is workload intensive.

Standard 2 – Effective organisational policies and practice

UNSW has a policy framework in place, and is positioned to meet the proposed Standard. All UNSW policies include reference to relevant legislation, are published on the UNSW policy website, and are subject to regular review and consultation.

The University has in place:

- a) a newly approved Code of Conduct & Values that applies to all staff and students. This Code includes a specific statement that there is no place for GBV at UNSW. The University concluded that a single Code of Conduct and Values ensures that there are clear expectations of all members of the UNSW Community. In a research-intensive context, many staff are also students, and therefore a single Code is more workable.
- b) Sexual Misconduct Policy & Procedure, to be replaced with Gendered Violence Policy and Procedures by the end of 2024.
- c) Conflict of Interest Disclosure and Management Policy
- d) Whistleblower Policy for reporting serious wrongdoing
- e) Procedures in place for recruitment, promotion and appointment of individuals who are currently or who have been subject of complaint or misconduct.

The proposed Standard 2 can be strengthened by

1. Universities may work with hundreds of external organisations to provide, for instance, placements to students. It may be unworkable to require policies to be developed in partnership with all relevant organisations. Requiring external organisations to become subject to an education providers' policies may reduce opportunities for students, and may not be enforceable. There would also be concerns in relation to expecting external organisations to allow Universities to investigate incidents.
2. A workable initial approach may be requiring Universities to document that any external organisation providing placements to students as part of studies has a publicly available, current policy and process regarding their response to reports of GBV. This ensures that University staff and students have access to this information, and that staff can support students to make a report and access information about the outcome of a report.
3. Requiring prospective placement or program providers used by Universities to declare if their organisation or staff have been the subject of a complaint or investigation related to GBV.
4. Providing clarity of scope where some external partners have their own reporting and investigation pathways (such as Defence Australia), for those who are defence employees and studying at a University.
5. Requiring prospective University staff to declare any history of investigation in relation to GBV; consideration would need to be given whether this related to a history of investigation in the context of the workplace, or a history in relation to any relationship (including personal relationships).

Standard 3 – Trauma-informed, safety-first procedures

UNSW has in place a range of policies, procedures and practices that are trauma-aware including:

- a) a dedicated GBV reporting portal that ensures that reports can be made anonymously, but anonymous reporters can still communicate with staff.
- b) staff responding to GVB reports have training and experience in responding to GBV, and trauma-informed practice
- c) a dedicated website providing information on procedures, including a guide to GBV investigations.
- d) policy and procedure that ensure a risk and safety focused approach to assessing any immediate corrective actions required

UNSW supports this Standard in principle, however, there are two key concerns:

1. Defining 'trauma-informed' vs 'trauma-aware'.

We advocate for a distinction between 'trauma-informed' and 'trauma-aware' procedures. This is an important distinction as trauma-informed service delivery requires a higher standard of skill and practice, including significant, specialised training. The University would support this standard if the intent is to work towards 'trauma-aware' procedures. Long term, the sector needs to work towards a shared understanding of how trauma-informed procedures are enacted, to support implementation.

2. The proposed timeframes for investigation.

It would be advisable for the Department to liaise with the newly appointed National Student Ombudsman function before committing to a mandatory timeframe for finalisation of investigations.

The proposed one month turn-around for disciplinary processes will negatively affect the quality of an investigation and be prejudicial towards alleged perpetrators. This may have unintended consequences such as successful acquittal based on unfair process.

Consistent with other regulatory body reporting of serious investigations, a minimum of 40 days is required for a relatively straight-forward matter. Timeframes for investigation can be extended to support trauma-aware approaches to gathering information, including the gathering of witness statements or other evidence such as IT records, and to ensure that an alleged perpetrator has adequate time to seek advice and respond to allegations. Appeals further extend time to resolve; for instance, ESOS requirements provide 20 days to appeal a determination. Further extension of time can be required to avoid evidence contamination in a police investigation/court process.

These investigation requirements, however, should not and do not prevent a university from taking immediate actions to ensure safety. At UNSW, immediate actions may include sending "do not contact" orders to alleged perpetrators, placing an IT restriction/redirection on communications, temporarily restricting access to defined areas of campus or the whole campus, and moving either party to a different on-campus accommodation facility.

In addition, this Standard could be strengthened through consideration of the following:

1. When considering safety, the National Code should not make assumptions about safety, and who may need protection. For instance, alleged perpetrators of GBV who have significant disability may need provisions that focus on their safety for various reasons.
2. Requiring Universities to provide support to alleged perpetrators in relation to behaviour change may be unworkable. There is little evidence, yet, in relation to what type of support will assist perpetrators to change behaviour in this setting; most research is conducted with forensic populations, or persistent relationship violence offenders. The workforce with the expertise to do this work is also not well resourced in Australia, and Universities would be competing with organisations servicing the broader community for skilled staff.
3. Universities also have no ability to mandate any student, including a student who is alleged to have perpetrated GBV, to engage with therapeutic support. A more workable focus may be to offer case management support to students who have been the subject of a GBV report, with the goal of supporting safety at the University. Case management can be undertaken with the aim of linking a student to external, specialist services, and addressing providing coaching in relation to communicating with other students, and seeking social connection (two common issues that give rise with lower level GBV reports).
4. Based on UNSW experience, there is space for appropriately trained, trauma-aware staff to intervene with alleged perpetrators on less serious GBV matters. For example, UNSW has experienced very good outcomes through educative interviews, and educative interventions such as training/ education, recommendation to non-mandated counselling. These responses have been appropriate for students who have sent sexually inappropriate messages, or behaved in a way that may be perceived as sexually harassing, such as unwelcome date invitations.
5. Risk assessment needs to be better-defined. GBV behaviours reported in University settings fall on a spectrum, from low to high impact. As such, risk assessment can be fraught due to lack of context-appropriate evidence regarding practice. It would not be advisable to adopt risk assessment approaches used in forensic settings. Risk assessment of known 'red flags' in relationship violence is developed, and should be used as appropriate by trained staff.
6. It is agreed that the process of investigation should be as safe as possible, when seeking a disciplinary outcome. However, mandating a short investigative timeframe does not take into consideration the inherent needs of the victim-survivor. As such, it may be worth considering alternative approaches, including restorative approaches, to resolving reports of GBV in the University setting.
7. In relation to sharing information about reports, this would need to be carefully considered, and thresholds for sharing information clearly identified. Sharing information should be justified by a specific level of concern about safety in a specific University context. Thresholds should refer to the nature of the behaviour reported, and its severity (for instance aggression, and/or number of people impacted, and/or persistence despite prior intervention).

Standard 4 – Evidence-based education and training

UNSW supports this Standard. While there is always more work to be done, UNSW has the following in place:

1. Online education for all students, with roll out of mandated education in the latter half of 2024
2. Online education for students undertaking work integrated learning activities
3. Face-to-face education for students in residential settings and student leaders
4. Bystander intervention program for staff and students
5. A range of events to promote student engagement and awareness of issues related to GBV, including RespectWeek and Sextember
6. Embedding of information about GBV report and support in a range of other training, such as Ally Network.

This Standard can be strengthened through consideration of the following:

1. Education provided to staff and students must be evidence-informed and evaluated.
2. Online education offers the advantages of broad reach and consistency. However, the Standard should discourage Universities from relying on online delivery as their only approach to providing education.
3. Given the importance of teaching students and staff about consent, Universities need to be aware of the risks of mandated education, or any other enforced action. Universities implementing mandated training must communicate why they ask students and staff to complete education, and provide opt-out mechanisms.
4. University staff cannot be mandated to respond to disclosures of GBV. Staff may have experienced their own trauma, resulting in risk to their psychological wellbeing when handling disclosures. The focus in staff training (and any mandate) should be ensuring that staff understand their limits and have the skills to respond empathetically, referring the other person to help.
5. The proposal to include unconscious bias training should be carefully evaluated; there is evidence that it can result in paradoxical affects, or no effect*. It is also unclear how it would address systemic power imbalances which result in GBV.
6. It should be recognised that a whole-of-university approach may require specialist training for leaders and managers who do not work directly with students and staff impacted by GBV. For instance, understanding trauma responses, recognising and questioning victim blaming mentality, and acknowledging systemic problems.
7. Standards needs to ensure that Universities have flexibility in relation to tailoring their education to their context. One approach would be to define a minimum standard, which asks Universities to demonstrate how their approach to education aligns with evidence at their institution about higher risk contexts for students and staff.

*See for instance Möller, Christian, Saffron Passam, Sarah Riley, and Martine Robson. 2024. "All Inside Our Heads? A Critical Discursive Review of Unconscious Bias Training in the Sciences." *Gender, Work & Organization* 31(3): 797–820. <https://doi.org/10.1111/gwao.13028>.

Standard 5 – Expert and timely support services

UNSW supports this Standard and the requirements to report on timely and accessible support.

UNSW has the following in place:

- a. Gendered Violence Response team, working within Student Psychology and Wellness services, which triages and responds to reports where a student is affected by GBV. Staff have specialist experience in working with people affected by sexual assault and relationship violence.
- b. Case manager working within Safer Communities team, who responds to reports where a staff member is affected by GBV.
- c. Complex case manager who responds to students with complex support needs.

This Standard be strengthened through consideration of the following:

1. Provide benchmarks regarding appropriate number of support staff given enrolment numbers and student cohorts. For instance, higher enrolment of international students increase the need for support by the University, due to less family and social support in Australia.
2. Student accommodation providers should be required to share reports about GBV affecting their resident(s) with the University where the residents are enrolled. Some accommodation partners have sought to provide their own internal support services. While this can assist student-residents, it can also result in reports of GBV at an accommodation provider not being shared with the University where students are enrolled. This prevents study support being implemented in a timely manner.

Standard 6 – Transparent data and reporting

UNSW was one of the first universities in Australia to report publicly on reports received, response to reports, and prevention activities related to GBV, and continues to report annually.

UNSW supports this Standard, with a goal of creating consistent data related to types of behaviours, attributes of those affected and people of interest, locations of incidents and activities where incidents occur.

This Standard be strengthened through consideration of the following:

1. It must be emphasised that reporting reflects a University community's preparedness to report concerns, and often demonstrates trust in the institution. High levels of reporting may, or may not, reflect high numbers of incidents of GBV.
2. There needs to be consideration of the goal(s) of reporting data. Is it to ensure that there is adequate support? Is it to ascertain whether other action is taken? For instance, at UNSW, people report historical incidents, relationship violence occurring off campus, which is perpetrated by people who are not part of the University community, and incidents that occur in online environments not linked to the University. Those who come forward are still appropriately supported, even when the University cannot take further action.
3. Reporting on outcomes is complex. As described above, the University may not be able to respond to some reports. Other reports may require ongoing, long term support of the student, in relation to their study, or police investigation which result in court proceedings. Thus a lengthy time to close a report may not represent a lack of action by the University.

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

The Department should be adequately resourced to provide a Departmental coordinated national approach to:

1. Education and awareness campaigns and collateral that can be used by all HE providers regardless of size. This would ensure consistency in messaging, efficient use of resourcing, and reduces the burden on individual Universities. TEQSA do this well in relation to Academic Integrity resources for universities.
2. Department coordinated and managed online training for students, with automated evaluation which could be used all providers. This would enable Universities to provide additional education reflecting their specific context and cohorts of students.
3. Trauma aware training provided at the Department level for staff across all HE providers who are involved in investigating reports.
4. Departmental reporting system that a provider could use as its reporting option, rather than each University maintaining their own stand-alone system. This would have the added benefit of consistent data collection.

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

UNSW supports this Standard. UNSW has the following in place:

- a) Review of data relating to incidents occurring in student residential settings.
- b) Training available to residential assistants in student residential settings, which includes content on GBV and reporting GBV.
- c) Education on GBV to new residents of UNSW operated accommodation.

This Standard could be strengthened by:

1. Articulation of enforcement mechanisms; for instance, establishment of an accreditation system for providers of accommodation to students.
2. Clear direction about minimum expectations when accommodation providers respond to a report about residents. Currently, the response is not consistent. Some providers are well equipped to manage reports, and change accommodation arrangements or ask a resident to relocate. Other providers are reluctant to ask a resident to leave, unless an incident is either being investigated by Police or the University. Historically, some accommodation providers will seek to wait for a Police or University outcome before asking a resident to leave.
3. While separation of residents involved in an incident is needed, there are often mental health concerns regarding all involved. An alleged perpetrator with mental illness and no social support may be at risk if harm if they are moved to private accommodation without in-place support. These complexities should be acknowledged in the Code.

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

UNSW has experience implementing the 'Courageous Conversations' program, which is recognised as a best practice approach to responding to many student behaviour matters. Based on this experience, UNSW would support consideration of this, or other restorative justice approaches, to respond to some incidents.

However, implementing this approach requires guidance in relation to assessing what type of incidents could be referred to RJ processes, discussing RJ with those involved, and setting their expectations, and running RJ processes successfully. Staff training to be able to implement this approach is also required.

UNSW experience also highlights that resources are needed to respond better to people whose behaviour has been reported. This is an area that many University support services have traditionally avoided, as staff do not have skills and training to respond to significant behavioural concerns, and expert supervision in relation to risk assessment and safety planning is not available. Health professional staff are bound by their registration and professional accreditation to act within the limits of their training and expertise.

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

GBV reflects systemic power imbalances. Addressing GBV in Universities means changing structures that perpetuate power imbalances between students and staff, supervisors and HDR candidates, senior leadership and staff and academic and professional staff. Acknowledging the cultural shift required to address inherent power imbalances need to be acknowledged; linking the Standards to shifting these power imbalances should be considered.

It should be acknowledged that Universities face a range of challenges to safety. Focusing on GBV will not ensure transparency and accountability in relation to holistic prevention of, and response to the range of concerns occurring, such as racism, and radicalisation.

How often should the National Code be reviewed and updated?

It is recommended that feedback on the National Code is sought after 2 but before 3 years; this should give sufficient time for Universities to have implemented, or attempted to implement, actions required, report on progress and barriers.

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

UNSW resourcing of specialist staff who respond to concerns impacting students is an example of good practice, ensuring that students are able to work with staff with appropriate expertise in relation to safety and recovery.

[Gendered Violence Prevention & Response Annual report](#) is an example of good practice in reporting and transparency

UNSW's [Courageous Conversations](#) is an example of best practice in dealing with interpersonal behaviours where a formal investigation may not be required or appropriate.

Conclusion

Thank you once again for the opportunity to comment on the *National Higher Education Code to Prevent and Respond to Gender-based Violence Issues Paper*. We stand committed to working with government to achieve the shared goal of eliminating GBV in Australian Universities, and the wider community.

Should you wish to discuss any issue raised in this submission, please do not hesitate to contact Penny Huisman, Manager, Safer Communities via p.huisman@unsw.edu.au