

UNSW Submission – Universities Accord (National Student Ombudsman) Bill 2024

UNSW welcomes the opportunity to provide a submission to the Senate Standing Committee on Education and Employment’s inquiry into the *Universities Accord (National Student Ombudsman) Bill 2024*.

Executive Summary

The Senate Standing Committee on Education and Employment should consider the following in its inquiry into establishing the National Student Ombudsman (NSO):

1. Dealing with complaints

- a) Providing a one-stop-shop for students to lodge their complaints. This will include mapping the full complaints cycle for each Australian jurisdiction and a delineation of the scope of the NSO compared to other relevant bodies.
- b) Ensuring close coordination between complaints bodies able to or implicated in considering different kinds of student complaints to minimise students making complaints to multiple agencies simultaneously, potentially leading to inconsistent outcomes and to avoid retelling their experience, whether traumatic or otherwise, to multiple agencies.

2. Information gathering

- a) UNSW recommends providing universities more time than the specified minimum of 14 days to produce information for complex or historical cases.

3. Review of the National Student Ombudsman

- a) Reviewing the NSO within 24 months of its commencement to:
 - i. Consider whether the NSO works cohesively with the yet to be finalised National Higher Education Code to Prevent and Respond to Gender-based Violence and the yet to be established Australian Tertiary Education Commission.
 - ii. Assess if the powers and scope of the NSO are appropriate having regard to the issues raised below.

About UNSW

UNSW is ranked in the world’s top 20 universities. UNSW is a world-leading research and teaching-intensive university, known for innovative, pioneering research and high-quality education with a longstanding global impact. Since our foundation in 1949 and through celebrating our 75th anniversary year, our aim has been to transform all lives through excellence in research, outstanding learning and teaching experiences, and a commitment to advancing Australia’s economic growth and prosperity.

UNSW is committed to promoting a culture that values complaints and their effective resolution.
UNSW:

1. recognises the potential for complaints to enable a better understanding of our people and business and provide opportunities for continuous improvement.
2. seeks to handle complaints with integrity, dignity and respect for all those involved; and to do so without unreasonable delay, through transparency of process and as close to the source of the complaint as possible through discussion, cooperation and if appropriate, conciliation.
3. aims to reach a fair and reasonable outcome with minimal detrimental effect on ongoing study or working relationships, or to the reputation of individuals.
4. ensures, so far as is reasonably practicable, the health and safety of those involved in the complaints process.

This commitment is reflected in the University's Code of Conduct and Values and is operationalised through the [SpeakUp strategy](#) and the nationally and internationally recognised [Courageous Conversations](#) program and through the transparent and public [annual reporting](#) of student complaints and misconduct.

UNSW considers the following elements critical to ensuring that the NSO can support students in their complaints journey:

1. Dealing with complaints

The NSW Ombudsman's guide *Complaint Handling at Universities: Australasian Best Practice Guidelines* (2015) states that "Universities are unique institutions. The complaints that will inevitably arise in this environment require correspondingly unique procedures." This unique environment of higher education regulation requires trust and role clarity between higher education providers and regulatory bodies. Noting the broad scope of the NSO, UNSW recommends the following:

- a) **One-stop-shop for students to lodge their complaints** so that students have a clear pathway on how to escalate their complaints to avoid students making complaints to multiple agencies simultaneously, potentially leading to inconsistent outcomes, delays in response time and inaccurate data. This should involve **mapping the full complaints cycle** for each Australian jurisdiction for the topics that the NSO will have carriage of, notably student safety, welfare, course administration, HECS administration, reasonable adjustments for students, and other matters. This would then enable guiding students to the correct complaints' mechanisms once the NSO is in operation.
- b) **Clear scope of the Ombudsman** compared to other regulatory bodies to avoid unclear jurisdiction. This will include the various Commonwealth and State Ombudsmen, TEQSA, ASQA, the AAT, human rights commissions and other relevant government departments and agencies, such as the Department of Education. This scope should include **close coordination between student complaints bodies** to minimise students making complaints to multiple agencies simultaneously, to avoid inconsistent outcomes, and to avoid retraumatising students by requiring them to retell their experience to multiple agencies.

2. Information gathering

UNSW recommends providing universities more time than the specified minimum of 14 days to produce information for complex or historical cases.

The NSO's powers include the power to compel the production of information and documents (including classes of information and documents) to support its functions, which is broader than the Commonwealth Ombudsman's powers. The Bill states that the notice must allow at least 14 days for compliance. Noting that the Bill as drafted has no time limit for the making of any type of student (including former and prospective student) complaint, providing universities with more time than the specified minimum of 14 days to produce information for complex or historical cases should be prescribed rather than being the subject of the discretion of the public official managing the complaint. Some historical artifacts might not be easily findable while complex cases might require coordination across multiple divisions, faculties and schools.

3. Review of the National Student Ombudsman

UNSW recommends a statutory review of the NSO within 24 months of the commencement of its operation.

Given the large number of changes to the higher education sector that are underway as the Universities Accord's recommendations are gradually implemented, a statutory review within 24 months will be important. This will:

- a) enable exploring if the NSO works cohesively with the yet to be finalised National Higher Education Code to Prevent and Respond to Gender-based Violence and the yet to be established Australian Tertiary Education Commission.
- b) provide the opportunity to understand if the NSO's powers and scope are appropriate to fulfil its functions. This would include examining if the current definition of "higher education student," that includes not only current students in an award degree but also prospective students and former students in any course of study, is too broad. Moreover, the review should also consider if there has been ambiguity for students using the NSO's complaints mechanism and help to determine if the current absence of definitions such as "due diligence" for education providers will have led to ambiguity.
- c) assess if the NSO's operations have had impact on academic freedom and judgement, noting the excluded actions under the Bill can in fact be included in the NSO rules by the Minister as a legislative instrument, and the flexibility outlined in the explanatory memorandum should a complaint relate only in part to an excluded action.
- d) provide an opportunity to examine vexatious litigation or fixated complaints and if applying a trauma-based approach with no time limit to all types of student complaints regardless of the nature of the claim has proven to be the right approach.
- e) provide an opportunity to examine whether the procedural fairness afforded to all parties to a complaint is adequate. This is especially important given that complainants can stop investigations by the NSO at any given point and can choose to pursue their complaint anonymously.

Conclusion

Thank you for the opportunity to provide a submission to the Senate inquiry into the *Universities Accord (National Student Ombudsman) Bill 2024*. Should you wish to discuss any issue raised in this

submission, please do not hesitate to contact Senior Government Relations Manager, Ms Maxie Hanft, on m.hanft@unsw.edu.au.