

# Consultation on the Draft Action Plan addressing gender-based violence in higher education

Responses 25 Jan 2024

Sexual Assault Services Victoria (SASVic) and the Centre for Excellence in Child and Family Welfare (the Centre or CECFW) welcome the opportunity to provide a joint submission to the Australian Government Department of Education on the draft action plan addressing gender-based violence (GBV) in higher education. While universities have made efforts to address sexual assault and sexual harassment, these efforts have been inconsistent, change has been slow, and much more remains to be done. This is why we welcome the draft action plan and its focus on primary prevention, multi-layered accountability and actions, including the National Student Ombudsman, strengthening provider accountability and increased data transparency and scrutiny. We also welcome the strong commitment to using data and evidence to support and track implementation of the action plan over time.

SASVic is the peak body for 18 specialist sexual assault and harmful sexual behaviour services (SSAS) in Victoria. We work to promote rights, recovery and respect for victim survivors and other people impacted by sexual violence and harm. We seek to achieve this by working collectively to address the attitudes, systems and structures that enable sexual violence to occur.

The Centre is the peak body for child and family services in Victoria and Tasmania. For over 100 years, the Centre has advocated for the rights of children and young people to be heard, to be safe, to access education and to remain connected to family, community and culture. We represent over 150 community service organisations, students and individuals throughout Victoria and Tasmania working across the continuum of child and family services, from prevention and early intervention to the provision of out-of-home care.

We also acknowledge the work and advocacy of victim survivors and organisations, including End Rape on Campus Australia (EROC), Fair Agenda, The Hunting Ground Australia Project, the National Union of Students, National Tertiary Education Union (NTEU), and SSAS to ensure best policy and practice responses for staff and student victim survivors of sexual violence in higher education.

## What do you see as the opportunities or challenges to implementing the proposed whole-of-institution approach?

One key opportunity for primary prevention is to apply the positive duty that currently applies to employers under the *Sex Discrimination Act* to all higher education and student accommodation providers. This would require providers to take reasonable and proportionate measures to eliminate sex discrimination, sexual harassment and victimisation, as far as possible.<sup>1</sup>

Sexual violence is harmful, pervasive, and preventable. SASVic members bring over 30 years of feminist practice and specialist expertise to the task of reforming system responses to sexual violence and harmful sexual behaviours. CECFW members work closely with victim survivors of family violence, including children and young people, and provide referrals to SSAS through our work in The Orange Door and with community service providers. Together, SASVic and the CECFW aim to help shape society to ensure all those affected can get the support they need where and when they need it. Specialist sexual assault practitioners, commonly called Counsellor Advocates, are degree qualified. When they enter the specialist sexual assault sector, they are provided with bespoke training, through training sessions and specialist therapeutic supervision, to ensure they have the specialist skills needed to support victim survivors safely, sensitively, and appropriately. Between the years 2022 and 2023, SASVic members provided support to 20 698 victim-survivors.

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<sup>1</sup> Australian Human Rights Commission (AHRC), *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Sydney: AHRC, 2020), <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>.

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SSAS have a particular and crucial role in relation to sexual violence, from prevention work to providing support to victim survivors about their rights and options to providing therapeutic counselling. SSAS operate across every region in Victoria.

Both SASVic and the CECFW already have established relationships with universities. For example, several SASVic members already have formal or regular arrangements in place with local higher education providers. For example, there are funded counsellor advocate positions that work in universities one or a few days a week to provide on and off campus specialist counselling and support to student victim survivors. Our experience shows a high demand for counsellor advocates in these settings and the potential to expand and formalise relationships between the SSAS and higher education providers.

**Recommendation: Resource SSAS for counsellor advocates in higher education providers, including universities and TAFEs.**

External institutions often do not understand the services SASVic members provide, which includes:

- 24/7 specialist responses
- ongoing interventions and therapeutic support for adult and child victim survivors and their families
- primary prevention and community education
- secondary consultation with other services and sector.

Clear and up-to-date referral pathways to state and national SSAS should therefore be formalised.

**Recommendation: Formalise consistent referral pathways between higher education providers, student accommodation providers and specialist sexual assault services.**

SSAS expertise has typically been under-recognised and under-resourced in prevention work.<sup>2</sup> SASVic members have a long history of delivering primary prevention education focused on consent and have delivered education on identifying and responding to disclosures to university campus security staff and faculty staff members. Members' deep understanding of the context and types of sexual violence commonly used by and against young people, and ability to recognise trends in sexual violence, places our members as experts in prevention efforts. The CECFW also works closely with young people who are using violence in the home, including in intimate partner relationships, and have developed and delivered training to professionals to support young people who are both victims and users of violence and their families.

Additional opportunities include resourcing to SSAS to provide:

- education and information during events such as Orientation week or notable days, such as 16 Days of Activism against GBV
- outreach to student accommodation providers
- workforce development activities
- engagement in primary prevention programs.

**Recommendation: Resource specialist sexual assault services to work with providers to develop and implement comprehensive strategies and referral pathways to prevent and respond to sexual**

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<sup>2</sup> Family Violence Reform Implementation Monitor (FVRIM), *Monitoring Victoria's family violence reforms: primary prevention system architecture* (Melbourne: Office of the FVRIM, 2022), <https://www.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-primary-prevention-system-architecture>.

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### assault.

The draft action plan should align more strongly with the *National Plan to end violence against women and their children 2022-2032* (National Plan). Members of diverse communities experience sexual assault and sexual harassment at higher rates. We note that, for example, the draft action plan does not mention *Closing the Gap*, which is a principle in the National Plan.<sup>3</sup> This is particularly important given that Aboriginal and Torres Strait Islander women experience disproportionately higher levels of sexual violence.<sup>4</sup> As examples:

- 56 percent of Aboriginal and Torres Strait Islander people experienced workplace sexual harassment in the last five years<sup>5</sup>
- One in five (21.4%) Aboriginal and/or Torres Strait Islander students had been sexually harassed in a university context compared with 16.0% of other students<sup>6</sup>
- One in eight (12.0%) Aboriginal and/or Torres Strait Islander students had been sexually harassed in a university context in the past 12 months compared with 8.0% of other students.<sup>7</sup>

As a principle of the draft action plan is to apply an intersectional lens, it is critical to address intersecting drivers, including the ongoing impacts of colonisation, intergenerational and collective trauma, and the impacts of colonial patriarchy.<sup>8</sup>

**Recommendation: Strengthen alignment with the *National Plan to end violence against women and their children 2022-2032*, with a focus on *Closing the Gap*.**

SASVic and the CFECFW question the lack of information in the draft action plan relating to perpetrator accountability, which is also a principle in the National Plan. We note one mention of sanctions on perpetrators, and another mention of ongoing support and safety planning, including while disciplinary processes are underway. The National Inquiry into Current and Proposed Sexual Consent Laws (National Inquiry) heard evidence that the outcomes of 565 sexual assault and harassment complaints across 39 universities included six expulsions, a \$55 fine, and a written apology to the university.<sup>9</sup> As EROC pointed out, at that university, the cost of a parking ticket was more than a \$55 fine for a perpetrator.<sup>10</sup> This is completely unacceptable. Possible measures include writing an apology letter to the victim survivor if the victim survivor requests or agrees, expulsion or termination of employment, a report to police, and referring the perpetrator to a men's behaviour

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<sup>3</sup> We note that the new *National Agreement on Closing the Gap* includes a target that Aboriginal and Torres Strait Islander students reach their full potential through further education pathways. Australian Government Productivity Commission, "Closing the gap: Information Repository", accessed January 18, 2024, <https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area6>.

<sup>4</sup> Our Watch, *Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their women* (Melbourne: Our Watch, 2018), <https://www.ourwatch.org.au/resource/changing-the-picture/>.

<sup>5</sup> AHRC, *Time for respect: Fifth national survey on sexual harassment in Australian workplaces* (Sydney: AHRC, 2022).

<sup>6</sup> Wendy Heywood et al., *National Student Safety Survey (NSSS): Report on the prevalence of sexual harassment and sexual assault among university students in 2021* (Melbourne: The Social Research Centre, 2022), <https://www.nsss.edu.au/results>, p.20.

<sup>7</sup> Wendy Heywood et al., *National Student Safety Survey (NSSS)*, p.20.

<sup>8</sup> Our Watch, *Changing the picture*, <https://www.ourwatch.org.au/resource/changing-the-picture/>.

<sup>9</sup> The Senate Legal and Constitutional Affairs References Committee, *Current and proposed sexual consent laws in Australia* (Canberra: Commonwealth of Australia, 2023), p.91.

<sup>10</sup> The Senate Legal and Constitutional Affairs References Committee, *Current and proposed sexual consent laws in Australia*, p.91.

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change service if they are engaging in intimate partner violence.

We emphasise the importance of co-designing perpetrator accountability measures with victim survivors, students and staff to ensure safety and appropriate sanctions on perpetrators.

**Recommendation: Co-design perpetrator accountability measures with victim survivors, students, and staff to ensure safety and appropriate, consistent, and transparent sanctions are applied. Accountability measures could include writing an apology letter to the victim survivor if the victim survivor requests or agrees, expulsion or termination of employment, a report to police, and referral of the perpetrator to a men's behaviour change service if they are engaging in intimate partner violence.**

Our two organisations support the draft action plan's proposed Student Ombudsman which could hold providers to account by having the authority to investigate if provider actions are unjust, unlawful, discriminatory, or unfair. We also welcome the inclusion of oversight, standards and accountability in relation to student accommodation providers.<sup>11</sup> The Student Ombudsman and increased oversight, standards and accountability of student accommodation providers could potentially address the issue of university reluctance to apply measures to support student safety while investigating complaints.<sup>12</sup>

There is the challenge in supporting staff to disclose experiences of sexual harassment: almost half of victim survivors did not pursue a complaint against their harasser.<sup>13</sup> The top three reasons for not doing so include:

- Not thinking anything would be done
- People would think they were overreacting
- No trust in the complaint and resolution process.<sup>14</sup>

There are many challenges to supporting staff disclosure and reporting of sexual violence. The NTEU points out the practice of providers eroding staff safety and rights from industrial agreements or transferring them into policy, which can be ignored industrially.<sup>15</sup> The problem is exacerbated for junior or untenured academics who believe making a complaint would lead to 'career suicide', particularly when the alleged perpetrator is in a more senior role.<sup>16</sup> SASVic and the CFECFW are also

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<sup>11</sup> EROC, *The red zone: an investigation into sexual violence and hazing in Australian university residential colleges* (EROC, 2018). *The red zone* report highlights the distinct student accommodation provider themes of O-week, 'fresher grooming', hazing and initiation rituals, insularity, misogyny, racism, wealth and privilege, and drinking rituals and alcohol use. These themes create conditions whereby students living in university owned or affiliated residential accommodation were more likely than other students to have been sexually assaulted or harassed.

<sup>12</sup> EROC, "Answers to questions taken on notice at a public hearing in Sydney, 27 July 2023 (received 15 August 2023)", accessed January 22, 2024, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/sexual\\_contentlaws/Additional\\_Documents?docType=Answer%20to%20Question%20on%20Notice](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/sexual_contentlaws/Additional_Documents?docType=Answer%20to%20Question%20on%20Notice).

<sup>13</sup> NTEU, *Sexual harassment in the workplace* (NTEU, 2023), <https://nteua.sharepoint.com/sites/documents/Public/Forms/AllItems.aspx?id=%2Fsites%2Fdocuments%2FPublic%2FCampaigns%2FNational%2F2023%20SH%20Survey%2Dpreliminary%20findings%20FINAL%2012%2E10%2E23%2Epdf&parent=%2Fsites%2Fdocuments%2FPublic%2FCampaigns%2FNational&p=true&ga=1>, p.20.

<sup>14</sup> NTEU, *Sexual harassment in the workplace*, p.20.

<sup>15</sup> The Senate Legal and Constitutional Affairs References Committee, "Public hearings 27 Jul 2023", accessed January 22, 2024, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/sexual\\_contentlaws/Public\\_Hearings](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/sexual_contentlaws/Public_Hearings).

<sup>16</sup> Australian Women's History Network working group (AWHN), *'It destroyed my research career': survey of sexual and gender-based discrimination and abuse in Australian Academia* (AWHN, 2018), p.4.

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concerned about cultures of silence that protect perpetrators, particularly those in senior positions, and take actions against victim survivors who make complaints.<sup>17</sup> While universities and other tertiary institutions are required to implement Respect@Work recommendations 11 and 12 to deliver evidence-based information and training on sexual harassment for staff and students, and while the Australian Government supports smaller tertiary and higher education providers to implement recommendation 11 through the university regulator, this is insufficient to address problematic workplace cultures.<sup>18</sup> We welcome the draft action plan commitment to promoting staff safety by ensuring providers meet their legal obligations including the positive duty act to prevent sexual harassment and ensure that staff are able to safely report.

We note that while the draft action plan includes GBV more broadly, much work and focus leading up to the development of the draft action plan has focused on experiences of sexual assault and sexual harassment. We are concerned that the focus on sexual violence may be lost if subsumed under a broader GBV approach without due attention. We note that some forms of GBV, and sexual violence specifically, are more or less likely to occur on or around the university campus. For example, stalking, sexual harassment, and sexual assault are more likely to occur in this setting than elder abuse, which is more likely to occur in the home or in aged care. While these are broad generalisations, they indicate the need to clearly consider how specific forms of GBV will be addressed through the implementation of the draft action plan. The plan needs a dedicated section on how to prevent and address specific forms of sexual violence, including technology-facilitated sexual abuse, reproductive coercion, and sexual assault. It needs to address the accessing of or forced exposure to pornography, including child sexual abuse material, by higher education staff at work or students and staff in student accommodation. Recommended actions include guidance and education for students and staff on how to identify and respond to specific forms of sexual violence, with reference to appropriate legislation, policies, procedures and services.

**Recommendation: The draft action plan needs a dedicated section that clearly considers and articulates how specific forms of sexual violence will be addressed. Recommended actions include guidance and education for students and staff on how to identify and respond to specific forms of sexual violence, consistent with the relevant legislation, policies, procedures and services. This recommendation also applies to the new Higher Education Code to prevent and respond to gender-based violence (National Code).**

We welcome the decision to apply a broader scope to include all forms of GBV. We note that some forms of GBV, including sexual violence, may overlap with other forms of violence, like family violence. The draft action plan and National Code can benefit from details on how to prevent and respond to family violence and stalking. Two-thirds of women who experience family violence are in the workforce,<sup>19</sup> and family violence and stalking in workplaces can significantly affect their performance and productivity.<sup>20</sup> In Victoria in 2022, Victoria Police logged 7 526 stalking, harassment

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<sup>17</sup> AWHN, *'It destroyed my research career'*, p.13.

<sup>18</sup> Australian Government Tertiary Education Quality and Standards Agency, "Sector update: Respect @ Work" accessed January 18, 2024, <https://www.teqsa.gov.au/sector-update-respect-work#:~:text=This%20sector%20update%20provides%20information,sexual%20harassment%20in%20the%20workplace.>

<sup>19</sup> Australian Government Workplace Gender Equality Agency (WGEA), "Employers stand up against family and domestic violence", accessed January 18, 2024, <https://www.wgea.gov.au/newsroom/employers-stand-up-against-family-and-domestic-violence>.

<sup>20</sup> WGEA, "Family and domestic violence", accessed January 18, 2024, <https://www.wgea.gov.au/take-action/family-domestic-violence>.

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and threatening incidents, which women were twice as likely to experience as men.<sup>21</sup> The specific policy and practice implications of addressing various forms of GBV in higher education settings must be considered and specified.

**Recommendation: Clearly consider and articulate how specific forms of gender-based violence, such as family violence and stalking, will be addressed through the implementation of the draft action plan. This recommendation also applies to the new National Code.**

Are there additional considerations a new National Higher Education Code to Prevent and Respond to GBV could include?

We welcome the inclusion of the National Student Safety Survey (NSSS) forming a regular part of increased data transparency and scrutiny. We would also like to draw attention to the National Inquiry recommendation 15 to conduct the NSSS with survey results made publicly available no later than 2025. The recommendation also includes that Universities Australia commits to conducting a national student safety survey on an ongoing basis every three years, to provide all stakeholders with up-to-date and accurate information about sexual violence on campus. This survey should encompass students of all ages on campus, including 17-year-old students who are at no less risk of sexual harm by virtue of not yet being 18.<sup>22</sup>

**Recommendation: Implement the National Inquiry into Current and Proposed Sexual Consent Laws recommendation 15 regarding the NSSS.**

As stated, we agree with the multi-layered accountability that the draft action plan proposes. At the same time, the draft action plan needs to explicitly state roles and responsibilities in universities, including campus security, residential cooking and cleaning staff. The draft action plan also does not mention the role of organisations and institutions which are part of the service system response to victim survivors and perpetrators of sexual assault. Students and staff need to be clear about the roles and responsibilities of services, such as specialist sexual assault services, police and the criminal justice system.

**Recommendation: The draft action plan needs to provide a clearer explication of roles and responsibilities, including in higher education providers and services such as specialist sexual assault services, in preventing and responding to gender-based violence.**

We also note that, due to the highly casualised nature of the higher education workforce, ongoing workforce development activities for all roles is crucial. In addition, students are more likely to disclose to tutors who may be on shorter term contracts than other university staff.

**Recommendation: Provide for ongoing workforce development activities for all roles, including staff who are on short-term contracts.**

We acknowledge the important work of the *Respect. Now. Always.* campaign, which supports the higher education sector to prevent and respond to sexual violence. We note that Universities Australia engaged a third party to undertake work to inform a prevention campaign. We draw attention to interesting findings from their work. A draft report on national sexual violence campaign research shows that students had ‘very limited recall’ of the campaign and thought that they were not being educated in a consistent way about respectful relationships for their life stage and maturity

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<sup>21</sup> Women’s Health Victoria (WHV), *Violence against women fact sheet* (Melbourne: WHV, 2023), <https://victorianwomenshealthatlas.net.au/reports%2Ffactsheets%2FViolence%20Against%20Women%2FStatewide%2FVWHAtlas%20Fact%20Sheet%20Violence%20Against%20Women%20Statewide.pdf>, p.8.

<sup>22</sup> The National Inquiry noted there are about 58 000 17-year-olds who attend university as students.



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level.<sup>23</sup> A research summary also includes recommendations to inform campaign development for young men, including topics that students would like guidance on, such as consent, navigating drugs and alcohol, and healthy and open communication.<sup>24</sup> We are aware the university sector did not proceed with the campaign and that the National Inquiry committee considered this a missed opportunity to provide resources to students and staff about respectful relationships and consent.<sup>25</sup>

**Recommendation: The *Respect. Now. Always.* campaign and any future higher education campaign needs to address the findings and recommendations from the work commissioned by Universities Australia to ensure all staff and students have specific guidance and targeted communications.**

How could we ensure the Code addresses the needs of different student and staff cohorts (e.g. LGBTQIA+, international, First Nations, people living with disability and higher degree research students)?

We are concerned that reporting pathways, policies and procedures and educational resources are not sufficiently accessible to members of diverse communities, such as students with disability, international students, and LGBTIQ students. For example, EROC points out the following: <sup>26</sup>

- University campaign *Respect. Now. Always.* is unclear to students, including international students, due to its euphemistic slogan
- One university's online reporting portal was found to be incompatible with screen reading software used by students with vision impairments
- There are few reporting options for students with hearing impairments, for example, the ability to have an interpreter present
- There is a lack of information for international students about access to medical and forensic procedures if they are a victim of violent crime, such as rape
- University counselling options are not culturally safe for LGBTIQ or migrant and refugee students
- One victim survivor who uses a wheelchair was informed that they had to provide an in-person report although the building was not wheelchair accessible for them to do so.

Given the prevalence of sexual violence against members of diverse communities, it is imperative that reporting pathways and resources are accessible and culturally safe.

**Recommendation: Co-design reporting pathways and resources with relevant peak bodies and victim survivors to ensure accessibility to students from diverse communities. Options for more accessible reporting pathways, information and resources include interpreting and translating**

<sup>23</sup> Universities Australia, 'Universities Australia, answers to questions taken on notice at a public hearing in Sydney, 27 July 2023 (received 4 September 2023)', accessed January 22, 2024, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/sexual\\_contentlaws/Additional\\_Documents?docType=Answer%20to%20Question%20on%20Notice](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/sexual_contentlaws/Additional_Documents?docType=Answer%20to%20Question%20on%20Notice), p.70.

<sup>24</sup> Department of Social Services, 'Department of Social Services, answers to questions taken on notice at a public hearing in Canberra, 25 July 2023 (received 31 August 2023), Question 2', accessed January 22, 2024, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/sexual\\_contentlaws/Additional\\_Documents?docType=Answer%20to%20Question%20on%20Notice](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/sexual_contentlaws/Additional_Documents?docType=Answer%20to%20Question%20on%20Notice).

<sup>25</sup> The Senate Legal and Constitutional Affairs References Committee, *Current and proposed sexual consent laws in Australia*, p.114.

<sup>26</sup> EROC, 'Answers to questions taken on notice at a public hearing in Sydney, 27 July 2023 (received 15 August 2023)', accessed January 22, 2024, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/sexual\\_contentlaws/Additional\\_Documents?docType=Answer%20to%20Question%20on%20Notice](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/sexual_contentlaws/Additional_Documents?docType=Answer%20to%20Question%20on%20Notice), and EROC, *Connecting the dots: A submission to the AHRC's 'University Sexual Assault and Harassment Project'* (EROC, 2017).

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**services, ensuring compatibility with screen reading software, using plain English, and providing information about access to medical and forensic procedures for international students.**

Thank you for the opportunity to contribute to the draft action plan and your work to improve primary prevention and responses to GBV in higher education.