

Australian Government  
Department of Education  
University Accord Implementation Branch  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Via email: [Governance.Consultation@education.gov.au](mailto:Governance.Consultation@education.gov.au)

Dear Committee,

**RE: Consultation on a National Student Ombudsman**

I welcome the opportunity to make a submission in relation to the proposed National Student Ombudsman.

The submission is not confidential and may be published.

**Background**

The Northern Territory Anti-Discrimination Commission (NT ADC) administers the *NT Anti-Discrimination Act 1992 (the Act)*. We are an office charged with promoting the recognition of equality of opportunity in the Northern Territory (NT). We also represent the human rights of consumers receiving services under the *Disability Services Act 1993* and *Mental Health and Related Services Act 1998*.

The Act prohibits sexual harassment and discrimination in education on the basis of all 24 protected attributes, but relevantly sex, gender identity, sexual orientation and sex characteristics. We have an independent complaints mechanism to deal with issues of sexual harassment and discrimination.

We also have newly introduced positive duty obligations to eliminate discrimination, sexual harassment and victimisation. This reform only came into effect on 2 January this year, and the NT ADC do not intend on actioning it until 6 January 2025.

### **Calls for a coordinated national approach and National Student Ombudsman:**

The Draft Action Plan addressing gender-based violence in higher education proposes a National Student Ombudsman with investigative and dispute resolution powers to ensure students have an effective, trauma-informed complaints mechanism to use when they are not satisfied by their provider's response.

Access to complaint mechanisms and resolution of disputes for students in higher education, particularly international or migrant students, can be overly complicated and difficult to navigate. The current processes depend on whether the service provider is a private or public institution, what the complaint is regarding, and whether or not the complainant is an international student. A National Student Ombudsman would relieve some of the issues students face, particularly in relation to systemic and public administrative complaints.

However, in terms of specific incidents of sexual harassment and discrimination, the Anti-discrimination Commission already has a trauma informed, culturally sensitive, human rights based mechanism for students to handle their complaints either against individuals at the university, or against the university as a vicariously liable party.

A National complaint body would pose cost and logistical issues for complainants in the Northern Territory as well as issues concerning privacy and dignity. Through the ADC, complainants have access to local, on the ground support by an independent office with local knowledge of the individual and sometimes nuanced issues facing the Northern Territory higher education system.

The ADC monitor the types of complaints arising in higher education and, as of January 2025, will be investigating service providers who may not be complying with their positive duty to take action to prevent and eliminate sexual harassment, discrimination and victimisation. If the ADC were not the complaints body, we would find it difficult to collect data on service providers to inform our investigatory function.

The Act covers 24 attributes providing students with a wide range of protection. Students can still elect to have a complaint heard by the Australian Human Rights Commission in circumstances where there is a potential conflict with any

Commonwealth legislation or the complainant elects to have their complaints handled at a Commonwealth level.

A further consideration that needs to be taken into account is, if the National Student Ombudsman program is implemented, will there be a financial support scheme to aid students from the Northern Territory to access the National service?

In any case, it is my view that the ADC is the appropriate complaints mechanism for students regarding sexual harassment and discrimination. If a National Student Ombudsman is created it should be to deal with public administrative issues and complaints which cannot be addressed by the ADC.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Yogaratnam', written in a cursive style.

Jeswynn Yogaratnam  
Northern Territory Anti-Discrimination Commissioner

31 January 2024