

## **Senate Education and Employment Committee – Higher Education Support Amendment (Response to Australian Universities Accord Interim Report) Bill 2023 [Provisions]**

### **FAIR AGENDA AND END RAPE ON CAMPUS AUSTRALIA**

#### **ADDITIONAL INFORMATION**

Fair Agenda and End Rape on Campus Australia wish to provide the following information to the *Higher Education Support Amendment (Response to Australian Universities Accord Interim Report) Bill 2023* inquiry.

**There are a number of actions that all universities and their associated residences could take right now to make their environments safer for students. These include, but are not limited to:**

- Having effective and trauma-informed complaints processes in place, such as:
  - Staffing the relevant student service(s) with appropriate capacity and training to respond to reports of sexual assault in a trauma-informed way
  - Ensuring visibility and accessibility of all related policies, complaints processes and student supports available,
  - Ensuring that students are provided with regular updates on their complaint and are provided with the outcome to their complaint, in writing
  - Ensuring that interim safety measures are in place for the duration of the process, such as no-contact orders and plans for ensuring that student survivors are provided with safe access to all parts of the campus they need to access.
- Providing sufficient academic support for students impacted by sexual assault and harassment, such as:
  - Allowing access and/or academic support plans to be flexible and in place for periods greater than one semester and allowing for simple extension request processes
  - Ensuring that relevant services are adequately staffed to meet demand
- Ensuring transparency to improve survivor confidence in reporting processes:
  - Sharing de-identified data about the number of sexual assault reports received and how they were responded to
  - Having a clear policy for how they will respond to complaints in a timely manner,
  - Having an approach to ensure students engaging in harmful, violent or unacceptable conduct aren't given opportunities to cause further harm

#### **The failure of current regulatory approaches**

At the same time as many universities have demonstrated an unwillingness to make even basic changes to ensure student safety, the regulator, TEQSA, has proven ineffective at holding them

accountable for these failures.

Following the release of the Australian Human Rights Commission's *Change the Course* report in 2017, the former Education Minister Simon Birmingham directed TEQSA to take the lead in the sector's response to campus-based sexual violence.

But TEQSA has failed to deliver the accountability or change needed in this area. It is our analysis that TEQSA is not currently equipped to deliver the intervention necessary to address sexual violence at universities - from a mandate, capacity or expertise perspective, nor within their current regulatory framework.

According to information provided by TEQSA to Senate Estimates, on more than 60 separate occasions from September 2017 to 30 November 2022, TEQSA examined university policies, procedures and responses to sexual assault and sexual harassment-related matters against the Student Wellbeing and Safety Standard requirements. This comprised:

- 29 finalised complaints from student survivors or their representatives;<sup>1</sup>
- 12 occasions when TEQSA engaged with universities in relation to sexual assault and sexual harassment-related matters raised in media reports;<sup>2</sup>
- 20 assessments of the quality of individual university's sexual assault and sexual harassment prevention and response measures as part of the TEQSA's registration renewal processes;<sup>3</sup> and
- 5 instances where universities had themselves notified TEQSA of a matter of concern related to sexual assault or sexual harassment.<sup>4</sup>

On not one of these occasions did TEQSA find a university's non-compliance with the Threshold Standards, nor did TEQSA apply enforcement action in relation to sexual assault and sexual harassment-related matters. The strongest sanction applied by TEQSA, on a handful of occasions, has been "monitoring and annual reporting" of universities.

TEQSA's findings stand in stark contrast to the results of the National Student Safety Survey, ongoing and unresolved complaints received by End Rape on Campus Australia, and contemporaneous media reports highlighting shocking sexual violence and the failure of institutional responses.

TEQSA's failure to take enforcement action comes at the same time as several egregious examples of inadequate responses during that same period. To give an insight into issues that have been raised in the media, which TEQSA could have self-initiated compliance action in relation to some of the media attention in that period:

- May 2017: Despite having committed and been convicted and imprisoned for child sex offences while enrolled as a PhD student, The University of Tasmania allowed Nicolaas Bester, the former high school teacher convicted of raping the 2021 Australian of the

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<sup>1</sup> Senate Standing Committees on Education and Employment, Parliament of Australia, *Budget Estimates 2022–2023*, Question on Notice SQ22-000390.

<sup>2</sup> *Ibid.*

<sup>3</sup> Senate Standing Committees on Education and Employment, Parliament of Australia, *Budget Estimates 2022–23*, Question on Notice SQ22-000173

<sup>4</sup> Senate Standing Committees on Education and Employment, Parliament of Australia, *Budget Estimates 2022–2023*, Question on Notice SQ22-000390.

Year, Grace Tame, to remain enrolled and on campus. The university received multiple additional complaints about Bester's behaviour toward women students in the university's gymnasium, but took no further action<sup>5</sup>.

- March 2018: following the release of EROC Australia's report *The Red Zone*, students and their families who had attended residential colleges associated with the University of Adelaide, University of South Australia, Flinders University, and the University of Sydney, reveal horrifying instances of rape, harassment and hazing, resulting in them withdrawing from the colleges and university and one student's life ending in suicide<sup>6</sup>.
- June 2018: further horrific stories of extreme intoxication, harassment, bullying and rape emerged from St Mark's College, a residential college associated with the University of Adelaide, University of South Australia and Flinders University, with one student survivor being told that sexual assault was "all part of growing up" when she reported it to the college management<sup>7</sup>.
- June 2019: Students from Edith Cowan University raised concerns that the university was protecting student perpetrators after they were told that they could not receive any information about their formal complaints of sexual harassment and stalking. One student reported that she felt so unsafe on campus after the university failed to address her complaint that she switched to online studies<sup>8</sup>.
- April 2020: the University of Melbourne is forced to pay more \$700,000 in compensation to a PhD student who was sexually assaulted and harassed by a professor. It was revealed that the university was aware that multiple allegations had been made against the professor by other students but had failed to take any action to stop him from causing further harm<sup>9</sup>.
- A male student accused of stalking, watching one woman shower and sexually assaulting another was then hired as a tutor by the University of Queensland, despite a temporary protection order having been issued against him by one of his alleged victims. ([The Australian, May 2021](#))
- "Sex tours" of colleges; hard core porn displayed during student orientation; male students masturbating in front of other students; and naked male students giving a female staff member a lap dance at a residential college (60 Minutes, "[F for Fail](#)")
- A female student being intoxicated to the point of almost unconsciousness, being carried to a room by a male student and raped while a group of other students chanted her name outside the door. (60 Minutes, "[F for Fail](#)")
- Reports that when an allegation of sexual assault was raised with the management of a residential college they responded that it was "all part of growing up" (60 Minutes, "[F for Fail](#)")
- Reports of degrading initiation rituals, humiliating bullying, students being pressured to take their tops off, and sexual assaults at university residential colleges, and Administrators of the colleges looking the other way (60 Minutes, "[D for Disgrace](#)")
- The University of Adelaide's mishandling of misconduct by the former Vice-Chancellor Peter Rathjen, who the South Australian Independent Commission Against Corruption in August 2020 found had groped and kissed two female staff against their will at a university function in April 2019. ([ICAC, August 2022](#))

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<sup>5</sup> No author, (2017), [A petition is calling for a convicted sex offender to be banned from a Tasmanian University](#), News.com.au, 17 May 2017.

<sup>6</sup> Langdon, A. (2018), [D for Disgrace](#), 60 Minutes, 4 March 2018.

<sup>7</sup> Langdon, A. (2018), [F for Fail](#), 60 Minutes, 5 June 2018.

<sup>8</sup> Barry, H. (2019), [Tricked and stalked on social media: Perth uni students lodge complaints over 'threatening' behaviour](#), WA Today, 5 June 2019.

<sup>9</sup> Houston, C. (2020), [Melbourne Uni pays out \\$700,000 to PhD student](#), The Age, 11 April 2020.