



Submission into the National Ombudsman Proposed Legislation

Submission by Deakin University

October 2024

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Introduction

Deakin University is committed to providing the best possible experience for our students as we strive to produce capable graduates, across a diverse community.

At Deakin, we are steadfast in our commitment to a respectful, inclusive university environment with transparent misconduct and discipline procedures.

These provide the mechanism for holding students and staff accountable for behaviour that breaches our codes of conduct. Complaints by students or allegations of student misconduct are handled fairly, impartially and with procedural rigour by teams within the Office of the Dean of Students, with determinations of whether student misconduct has occurred being made by the University's Student Misconduct Committee.

Deakin University Specific Comments/Responses to Review Questions

Need For Regulatory Clarity

While Deakin recognises the drivers for the creation of the National Student Ombudsman, we hold several significant concerns regarding its remit, operation and place in an already complex web of roles, responsibilities and regulatory requirements.

We acknowledge the Federal Government has argued the Ombudsman role will provide a fair and transparent mechanism for addressing grievances and concerns within their institutions – however, little clarity has been provided to outline exactly how such transparency will operate:

1. How will the new National Ombudsman position engage with their State and Territory counterparts, ensuring a collaborative approach, while avoiding overlap and regulatory repetition?
2. Deakin is already a leader in our expert-informed and developed approach to reducing and tackling gender-based violence, and the resources we put into this work is significant. How will the new National Ombudsman work to avoid draining resources for best practice work already underway, in service of regulatory reporting, paperwork, and such activities that often serve little practical advance towards the objective we share?

Deakin acknowledges the opportunity for the National Student Ombudsman to further our sector towards a standardised best-in-class system for supporting students and battling the scourge of gender-based violence wherever it raises its ugly head in our communities. This is a noble intention, and an opportunity that should be seized.

However, as Deakin clearly argued during the Accord process, and in subsequent submissions, standardisation must not come at the expense of tailored processes and policies that match the diversity of student bodies, and differences between universities. Direct school leavers, commonly referred to as the 18-year-old cohort, make up less than half Deakin's student body. How we tackle gender-based violence and manage student misconduct is informed by such a statistic, and our approach to support, guidance, and education must consider such factors.

We believe in the work to raise standards across the board. But standardisation must come with consideration, and the nuance to not treat all cases as if involving young people barely out of school.

Gender Based Violence

Defeating the evil of gender-based violence is a mission for all members of civic society, and our landmark institutions. But words, ultimately, do not cut it. We must demonstrate this through our policies, procedures and, most of all, the actions we take flowing on from this foundational work.

At Deakin, we have a comprehensive suite of prevention and response initiatives that align with the objectives of the National Code. We have robust processes in place for addressing internal and external complaints, including responses to existing external bodies such as the Ombudsman and Victorian Equal Opportunity and Human Rights Commission. Allegations of sexual harm by a student where a staff member is the respondent are considered under the Student Complaints Resolution policy and procedure as well as the Staff Discipline procedure.

Our significant work in this area reflects the broader challenges identified for many leading organisations in our social landscape. We are not investigative bodies by nature and have had to build such capacities as appropriate. Likewise, we must acknowledge demarcation lines where organisations, such as the relevant police forces, are simply better equipped to undertake the work. This does, at times though, create friction between our capacities and the intent to support our students during difficult times.

Deakin would strongly pose that while some investigative ability is necessary, the Government should not drive universities towards such capability as a central resource – put simply it is not our core skill set and will always be a second shade to those best placed.

Likewise, as a leader in trauma-informed approaches to this area, Deakin is at the forefront of balancing support and understanding with fact-based outcomes and procedural fairness. Should a National Student Ombudsman be created, not only should procedural fairness and fact-based outcomes be clarified as a priority for the role, but it should be enshrined in its legislation and operations approach. Without, we will be establishing a system for further fracture within our communities, not one to support just outcomes.

Scope of the National Student Ombudsman

Deakin highlights the need for significantly increased clarity and detail regarding the nexus between matters of pure administration and matters involving academic judgement in universities, in relation to the jurisdiction of the National Student Ombudsman.

We note, based on the legislation, that the National Student Ombudsman appears to be able to investigate and make recommendations on university policies on academic freedom and freedom of speech, matters distinct from its other areas of responsibility. These policies are not simply an administrative matter and there is a question as to whether these matters are better handled with institutions. As such, this power set has troubling implications, without further clarity on the ability to investigate and make recommendations concerning such areas.

Procedures and Policy

It is pleasing to note that the National Student Ombudsman's complaint handling and investigations staff will be trained in trauma-informed practices. Deakin's own work in this area has applied such informed practices for some time and we welcome this acknowledgement. Applying a trauma-informed approach where appropriate will promote safe and person-centred experiences that support the wellbeing of complainants.

Student Advocacy

The ombudsman will serve as a particular advocate for student rights, using insights gained from individual cases to influence policy and practice at both institutional and national levels.

Deakin maintains a close, collaborative relationship with our elected student representatives, notably our student union – DUSA. There are multiple, regular channels of communication between the two organisations with a focus on student safety, wellbeing and inclusion.

Outreach and Education

Deakin supports the intention to build awareness and visibility among students and providers of the National Student Ombudsman and its role as an escalated complaints mechanism for students, as well as undertaking education activities to help the sector build its collective complaint handling capabilities. This is critical to ensure that there is broad awareness and engagement across Australian universities.

Conclusion

Whilst we understand the drivers informing this legislation, the need for clarity regarding the interface between the role and universities is vital. This clarity will be especially fundamental to ensure students are best placed to navigate the system.

Deakin would welcome the opportunity to inform and collaborate towards such clarity – and is happy to make available our expert team in this field to undertake such work. This will ensure the system that results is one that will truly provide students a further mechanism of vital support and voice in such challenging circumstances.

If any clarity of expansion on our submission is required, please do not hesitate to contact David Reeves, Senior Adviser to the Vice-Chancellor,

Yours sincerely

Professor Iain Martin
Vice-Chancellor