

A2568951

13 March 2026

Professor Helen Bartlett

Chair, Higher Education Standards Panel

By email to: HESFconsultation@atec.gov.au

Dear Professor Bartlett

[Consultation paper on amendments to the Higher Education Standards Framework
\(Threshold Standards\) 2021](#)

Thank you for the opportunity to provide a submission to the Higher Education Standards Panel (HESP) consultation paper on proposed amendments to the Higher Education Standards Framework (Threshold Standards) 2021 (**the Threshold Standards**).

I am writing to you in my capacity as the Commonwealth Ombudsman and National Student Ombudsman (the NSO).

The NSO is a statutory function of the Office of the Commonwealth Ombudsman (the Office). The Commonwealth Ombudsman is also the NSO. The NSO's establishment was a recommendation under the Australian Universities Accord and the National Action Plan Addressing Gender-based Violence in Higher Education.

The purpose of the NSO is to:

- consider complaints from students about the actions of their higher education provider about a broad range of issues
- resolve complaints through a range of pathways including early resolution, referral back to the provider, formal investigations, alternative dispute resolution and restorative engagement
- investigate systemic issues on the Ombudsman's 'own motion' initiative. Own motion investigations can include one or more providers, and make recommendations that are typically relevant for practice across the higher education sector

- give higher education providers advice and training about the best practice complaint handling.

The NSO aims to achieve its purpose by:

- independent and impartial resolution of complaints about the actions of higher education providers
- providing alternative dispute resolution and restorative engagement processes
- influencing higher education providers to be accountable, lawful, fair, transparent, and responsive, and
- referring higher education providers' actions to regulators when those providers may be in breach of their regulatory obligations.

The NSO has a broad remit, including student safety and welfare, racism, course administration, effectiveness of student complaints processes and matters relating to provider approaches to gender-based violence prevention and response.

In this submission I offer insights on the consultation questions that are relevant to my functions as the NSO.

NSO and TEQSA jurisdictions

Over the past 12 months the Tertiary Education Quality and Standards Agency (TEQSA) and the NSO have established an effective working relationship, which supports each entity to fulfil our respective obligations to the public and to the higher education community. In accordance with the *Ombudsman Act 1976*, the NSO shares information about potential breaches of the Threshold Standards identified in complaints we administer with TEQSA. Similarly, TEQSA refers students to the NSO where its review identifies the provider's actions appear unreasonable or unfair and the complaint is within the remit of the NSO.

While it is for TEQSA to determine how to apply the Threshold Standards, my staff are required to consider their application as part of our investigative work. If following an investigation, the NSO is of the opinion that action taken appears to be contrary to law, the NSO must report accordingly to the higher education provider.¹ As part of this work, NSO staff have found the broad nature of the standards means compliance is difficult

¹ See *Ombudsman Act 1976*, s 21AV.

to assess. Ensuring that the responsibilities of higher education providers are clearly articulated will assist providers to understand, and comply with, their obligations, and assist regulatory and oversight bodies to assess compliance.

As some of the existing standards are broad in nature, the introduction of additional standards, or changes to existing standards, should be accompanied by a regulatory strategy to assist providers to understand the specific requirements, and facilitate ease of monitoring and enforcing compliance with the standards.

Responses to consultation questions

Consultation Question 3: *What are the principal benefits and potential limitations of explicit anti-racism standards compared with reliance on existing wellbeing, equity and governance provisions?*

As of 9 March 2026, approximately 2 per cent of student complaints to the NSO are about matters relating to racism. The themes within NSO complaints align with the Australian Human Rights Commission's *Respect at Uni: Study into antisemitism, Islamophobia, racism and the experience of First Nations people*. Many of the complaints to the NSO involve serious instances of racism and discrimination and highlight missed opportunities by providers to:

- adequately support students through a distressing and deeply personal complaint
- adequately support students to keep their studies on track, and
- maximise the opportunity to implement systems-level improvements as part of outcomes to individual complaints.

The inclusion of a specific anti-racism standard would clearly set expectations that providers need to take further steps to combat racism. While there is existing legislation aimed at responding to racism and the Threshold Standards require compliance with all relevant legislation, there is no direct reference to addressing racism. I am supportive of the proposal to amend the Threshold Standards to explicitly include addressing racism, provided it clearly articulates the obligations on higher education providers.

Care should be used when considering adopting language such as 'demonstrate a commitment' within the Threshold Standards as it will not clearly define what action(s) needs to be taken and will likely be difficult to assess whether a higher education

provider is in breach of a standard. It would be clearer if the Threshold Standards required providers to have specific obligations to identify, prevent and respond to racism as well as ongoing monitoring and evaluation obligations (e.g. a requirement to implement, monitor and evaluate anti-racism policies and procedures).

The consultation paper identifies options to adopt a specific standard, or to embed anti-racism standards across multiple existing clauses. I am of the view there will be circumstances where a combination of both is appropriate. For example, if the Threshold Standard adopts a specific standard on addressing racism, it would also assist to outline the form this should take when considering Standard 2.4 on Grievances and Complaints. Students will often submit a complaint to the NSO based on their dissatisfaction with how their provider handled their complaint. Incorporating anti-racism requirements into complaints policies and procedures may assist providers to improve their handling of complaints involving racism.

Consultation Question 5: *How might strengthened standards on academic oversight, staffing profiles, and teaching quality affect student outcomes and experience?*

As of 9 March 2026, approximately 16 per cent of student complaints to the NSO are about matters relating to teaching and learning, including the quality of teaching and course content. Complaints in this category were typically about either:

- a concern raised about teaching methods or learning supports; or
- an issue with workplace integrated learning and placements.

Strengthened Threshold Standards making it clear that providers are responsible for delivering consistent, high-quality learning outcomes may help address broader student concerns that have been communicated to the NSO about these issues.

Consultation Question 6: *To what extent would the proposed themes in the consultation paper (inclusion, universal design and inherent requirements) drive a more inclusive and equitable higher education system and improved student outcomes?*

As of 9 March 2026, approximately 4 per cent of student complaints to the NSO are about matters relating to discrimination based on a person's disability, or about insufficient or poorly implemented learning adjustment plans. The NSO receives consistent feedback from students about difficulties implementing learning adjustment

plans, as well as raising implemented plans with new groups of teaching staff on the commencement of new courses each semester.

While the Threshold Standards currently reference supporting students with a disability through the availability of support services under standard 2.3.3, and the compliance with other legislative requirements (such as Disability Standards for Education 2005 and the *Disability Discrimination Act 1992*), I agree with the observation in the consultation paper that the Threshold Standards do not explicitly require inclusion-affirming practices or provide clarity and accountability on the responsibilities of staff.

I am supportive of making amendments in line with the proposed themes of inclusion, universal design and inherent requirements, including how they apply to grievance and complaints processes, to drive an inclusive and equitable higher education system. This may assist providers to address some of the issues my Office has identified in complaints. Similarly to my response to Consultation Question 3 above, a more definitive approach that clearly sets expectations for providers to take action to support students with a disability is welcome, however care should be taken to ensure that these obligations on higher education providers are not overly broad and make it clear to providers what action is required to be compliant with the standards.

Consultation Question 9: *Do the standards currently provide adequate guidance to manage risks related to emerging technologies?*

As of 9 March 2026, approximately 2 per cent of student complaints to the NSO are about matters relating to students accused of academic misconduct or plagiarism due to the use of artificial intelligence (AI) in their submitted work. Students raise concerns about the accuracy of automated 'AI checkers' and being accused of AI usage where they say their work is original. Common reasons students are flagged for AI usage are incorrect referencing and failure to evidence drafts.

The consultation paper refers to the challenges emerging technologies are creating to traditional approaches to quality assurance, academic standards, and research integrity. I agree with the view expressed in the consultation paper that the Threshold Standards should be amended to address emerging risks, including that there is transparent and responsible disclosure around the use of AI systems and other emerging technologies to ensure students understand when they have been used and how they have been applied. Amendments must make explicit requirements for there

to be processes that allow students to challenge outcomes and seek reviews of decisions made by, or with the assistance of AI.

Other matter - improving transparency of complaints

The consultation paper references the TEQSA *Statement of Regulatory Expectations: Student grievance and complaint mechanisms* in the context of demonstrating a commitment to combatting racism. I see benefit in the Threshold Standards improving the transparency of all complaints received among the sector.

The expectation of TEQSA that providers in the 'Australian University' provider category voluntarily publish annual complaints data, and the recommendation that reports be publicly available and published in alignment with a provider's publication of their annual report, is consistent with my views on better practice in higher education complaint handling. The HESP should consider incorporating this as a requirement into the Threshold Standards.

If you have questions or would like further information, please contact Sarah Bendall, First Assistant Ombudsman, National Student Ombudsman at

[REDACTED]

Yours sincerely

[REDACTED]

Iain Anderson

Commonwealth Ombudsman