



INDEPENDENT  
HIGHER EDUCATION  
AUSTRALIA

# IHEA SUBMISSION

## CONSULTATION ON NATIONAL STUDENT OMBUDSMAN

5 July 2024

## IHEA Submission

### Consultation on National Student Ombudsman

Independent Higher Education Australia appreciates the opportunity to provide further feedback on the Department of Education's (DoE) Consultation on a National Student Ombudsman (NSO).

During June 2024, DoE is undertaking targeted consultations with the higher education sector; student representatives; victim–survivor advocates; gender–based violence experts; First Nations bodies; LGBTQIA+ bodies; disability bodies; and Culturally and Linguistically Diverse (CALD) bodies.

Through these consultations, IHEA understand that the possible model for the National Ombudsman on which consultation is sought is set out below:

#### **POSSIBLE MODEL FOR THE NATIONAL STUDENT OMBUDSMAN (NSO)**

##### Role, Purpose and Timeline

The NSO will be established as a new statutory function of the Commonwealth Ombudsman. It will be the primary escalated complaints body for higher education students enrolled with a Tertiary Education Quality and Standards Agency (TEQSA) registered higher education provider. Higher education students will be able to raise complaints about the administrative actions of their higher education provider where they are not satisfied with their provider's response.

The Student Ombudsman is intended to streamline and simplify processes for students by providing a single, trauma–informed complaints mechanism. It will have sector–wide visibility of complaints about higher education providers and work collaboratively with TEQSA and the DoE, to identify and respond to systemic issues, promote best practice, and contribute to enhanced accountability.

It is anticipated the Student Ombudsman will begin taking complaints from 1 February 2025, subject to the passage of legislation.

##### Functions and powers

The functions of the Ombudsman will be as follows:

- Handle complaints.
- Support best practice across higher education sector.
- Work collaboratively with regulators.
- Investigate 'own–motion' issues.
- Offer restorative engagement processes.

The Student Ombudsman will have broad powers to enable it to effectively investigate a complaint. These will include, for example, the power to:

- Ask or require a person or provider to:
  - Provide information, documents or other records relevant to an investigation.
  - Attend a specified place and answer questions.
- Examine witnesses under oath or affirmation
- Enter the premises of a higher education provider to carry out an investigation.
- Form an opinion on whether actions taken by providers are contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or in all the circumstances wrong.

- Make recommendations about the administrative actions a provider should take to resolve a complaint
- Require evidence from a provider on the implementation of actions in response to recommendations.
- Through the proposed National Higher Education Code to Prevent and Respond to Gender-based Violence (National Code), will require providers to implement recommendations made by the NSO.

#### Complaints handling, lodgement and investigations

Students can complain to the NSO about a broad range of issues relating to the administrative actions of their higher education providers, including:

- Student safety and welfare, Including gender-based violence and other forms of sexual violence.
- Course administration, such as timeliness and accuracy of information provided to students.
- Disciplinary processes, such as procedures to address misconduct
- Teaching provisions and facilities, such as sufficiency of staffing to meet educational, academic and administrative needs of students.
- Reasonable adjustments, for students living with a disability or experiencing special circumstances.

The NSO will not handle complaints in relation to academic decision making. However, it will be able to investigate whether a provider has followed the policies and procedures that guide academic decisions.

The NSO will accept:

- Complaints made on behalf of another person, with their consent.
- Anonymous complaints.
- Group complaints.
- Historical complaints, if the NSO is of the view the complaint is still able to be investigated.
- Complaints made about the actions of a higher education provider that no longer exists, if a complaint is made within 12 months of the provider ceasing operation; and
- Complaints made by students living in accommodation which is owned and operated by their higher education provider (i.e. where a student is able to lodge complaints about their accommodation to their provider).

If the NSO decides to investigate a complaint, it:

- Will inform the student and higher education provider that it is investigating the complaint.
- May ask the higher education provider to provide any relevant documents or information within a given timeline.
- May form a preliminary view outlining the action it believes the provider should take to resolve the complaint, giving the provider an opportunity to comment.
- Will, when completing the investigation, inform both the provider and the student of any findings or recommendations, including administrative steps to resolve the complaint.

The NSO will have the power to undertake investigations on their own motion.

- The NSO can choose what to investigate and how an investigation should be conducted.
- Each investigation may differ slightly depending on the complexity of issues under investigation.
- The NSO will engage with higher education providers independently and impartially throughout the investigation.

- These ‘own–motion investigations’ may, for example be in relation to:
  - Systemic issues identified through the NSO complaints data or the media.
  - Issues identified through engagement with providers and other stakeholders such as the DoE and civil society organisations.

The NSO may decide to write an own–motion investigation report.

- If the report includes opinions that are critical of a provider, the provider will be given the opportunity to make submissions.
- The final report may be provided to the Department and Minister concerned.
- The report may be published if the Ombudsman deems it is in the public interest to do so.

#### Interactions with regulatory bodies and other complaints bodies

The NSO will work with regulatory bodies such as the Tertiary Education Quality and Standards Agency (TEQSA) and the DoE and will be empowered to:

- Disclose information and documents to TEQSA and the DoE if during an investigation it comes across information that may be relevant to their roles.
- Refer a provider to TEQSA or to the DoE for potential compliance action if, for example, the NSO suspects the provider is failing to meet their regulatory obligations.
- Provide TEQSA, the DoE and the Minister for Education with a copy of an investigation report if the NSO considers the higher education provider has not taken appropriate action in response to its findings or recommendations.

The NSO will seek to streamline, simplify and improve escalated complaints handling processes for students rather than duplicate roles or add complexity.

The NSO will not change the existing roles of human rights, anti–discrimination and equal opportunity bodies in relation to complaints handling and will work cooperatively with these bodies and state and territory ombudsmen.

The NSO will be empowered to:

- Refer or direct complaints to relevant state and territory or Commonwealth complaints bodies if there is a more appropriate body to handle the complaint.
- Disclose relevant information to state and territory ombudsmen, state and territory anti–discrimination bodies and relevant regulators to assist in the performance of their functions.

#### Restorative engagement process

Where appropriate, the NSO can offer a restorative engagement process between student and provider.

This may involve supporting reporters of gender–based violence to tell their personal story to a representative of their higher education provider in a private, facilitated meeting.

It also provides an opportunity for the provider to acknowledge and respond to the student’s personal story.

#### Recommendations

Following completion of an investigation, whether in response to a specific complaint or an own–motion investigation, the NSO may make recommendations to a provider. The NSO may recommend, for example, the provider:

- Reconsider a decision or action.

- Take appropriate action to resolve a complaint (for example, by providing additional support or adjustments for a student).
- Make changes to improve policies and procedures, which will benefit students into the future.

These recommendations will be specific, measurable, achievable, results oriented and have a specific timeframe for action or follow up.

### Reporting

The NSO will present the Attorney–General with an annual report that will also be provided to the Minister for Education, the Secretary of the DoE and the CEO of TEQSA. The report will present the NSO’s operations and performance of functions during that year and will be tabled in both Houses of Parliament. Reporting may include:

- The number of complaints received per higher education provider
- Details of findings or recommendations made by the NSO, and details of actions taken by a higher education provider in response
- Systemic issues or wider opportunities to improve complaints handling

The NSO will be empowered to provide reports to the Attorney–General at other times on the operations of the NSO or in relation to matters relating to the exercise or performance of its functions.

### Outreach and education

The NSO will use outreach to build awareness and visibility of its role among higher education providers, students and other stakeholders.

The NSO will also undertake educational activities to help providers build their complaint handling capabilities.

A dedicated outreach and education function within the NSO will be responsible for:

- Outreach to higher education students to build their awareness of the NSO.
- Engagement with providers to build awareness of the NSO’s role.
- Informing providers of the NSO’s expectations, including on best practice complaint handling.
- Providing workshops to help build provider capability to handle student complaints.

The NSO will hold regular virtual workshops available to all TEQSA registered higher education providers. The purpose of these workshops will be to:

- Educate providers on:
  - The NSO’s role and expectations
  - Better practice complaint handling
- Address findings from recent own–motion investigations by the NSO
- Address trends in complaints.

The Office of the NSO will also undertake direct engagement with Vice–Chancellors, CEOs or leaders of the largest providers to set expectations, build networks and elicit feedback.

To ensure that the NSO is visible and accessible to students, it will:

- Have its own brand and digital footprint.
- Have ongoing digital communications and advertising to reach and engage with students.
- Where possible, host stalls at orientation weeks and open days of providers selected on a mix of student

population and location (to ensure regional representation, for example).

- Explore ways to have a presence in all capital cities and major regional centres on a regular or semi-regular basis.
- Work with providers to ensure students have access to information about the NSO.

#### Future policy considerations

While VET students will not be able to access the NSO from commencement, consideration may be given to expanding the NSO to VET over time.

In implementing the NSO, DoE will be developing charging arrangements to support the costs of this new function, consistent with the principles of the Australian Government Charging Framework. The work will be informed by sector consultation and any charging will not commence before the 2027 calendar year.

## **DO YOU HAVE ANY FEEDBACK THAT YOU WOULD LIKE TO SHARE ABOUT THE STUDENT OMBUDSMAN MODEL AS PROPOSED?**

As outlined in IHEA's submission of 30 January 2024 on the NSO, we support and welcome the Commonwealth Ombudsman in considering domestic student disputes.

Access to independent review of student appeals is an essential consumer protection and a regulatory requirement of independent higher education providers. To date, the lack of suitable agencies to determine reviews of institution decisions has resulted in tribunal referral being the only available avenue for domestic students.

In this submission, we provide specific feedback on the possible model for the NSO, as outlined through the consultation process.

### Role, Purpose and Timeline

It is noted that under Chapter 3 of the Constitution, an executive body, such as the Commonwealth Ombudsman, cannot finally determine disputes between parties, which is ultimately a function that is exclusively reserved to Courts. As such, the NSO will not be able to finally resolve a dispute between higher education providers (whether that be public universities or independent higher education higher education providers) and a student. Further, regulatory action by TEQSA (or other regulators). In the case of the NSO, we understand that enforcement of NSO decisions will occur by the specialist Unit in DoE under the National Code.

Issues of procedural fairness also need to be considered whereby the Commonwealth Ombudsman both investigates complaints and allegations of maladministration and then determines and imposes remedies and penalties. This does not occur in other examples of industry ombudsman schemes, such as the Telecommunications Industry Ombudsman or state based energy, water or public transport ombudsman schemes. These other models should be considered in finalising the role of the NSO to ensure the best model is implemented.

Noting the above, IHEA supports the establishment of the NSO to consider complaints from domestic students. Our view is that the NSO should be the agency that handles complaints from students about the administrative actions of their higher education provider where they are not satisfied with their provider's response.

It will be imperative to embed in the NSO's role that it operates openly, independently, impartially and ensure that procedural fairness is at the centre of its operations. The NSO should develop a charter that outlines the principles it will follow and adopt in its operations.

IHEA believes that the role and operation of the Ombudsman should follow these key principles, which should be reflected in a charter and relevant operating protocols:

- Be open, independent and transparent.
- Operate and investigate fairly and without pre-judgement or prejudice.
- Develop and publish clear processes and timelines.
- Build in appropriate review and appeal mechanisms.
- Publicly report on the number and nature of complaints and decisions by the Ombudsman. This should occur as de-identified information.
- Require students to have first exhausted their institution's internal procedures for grievances, complaints and appeals prior to the escalation of their unresolved issue to the NSO.

The NSO does provide an opportunity to streamline existing complaints handling arrangements. For example, independent higher education providers are required, for TEQSA registration under the *TEQSA Act Higher Education Standards Framework (Threshold Standards) 2021 (HESF)*, to maintain procedures for resolving

grievances of current and prospective students about any aspect of their experience with the higher education provider, its agents, or related parties. Further, the HESF requires institutions to have internal procedures to resolve grievances and provision for review by an appropriate independent third party if internal processes fail to resolve a grievance (*HESF Standards 2.4*).

In finalising the model for the NSO, DoE needs to confirm that TEQSA will be satisfied that the role of the NSO meets the requirement of an independent third party for the purposes of the HESF. While there is a presumption that it would satisfy this requirement, this clarity and reassurance should be sought from TEQSA and communicated to providers. If it is not the case, the NSO model should be adapted to ensure that it will provide a streamlined pathway for escalation of complaints, and not create additional set of requirements for complaints handling.

In terms of streamlining, the NSO should subsume all other complaint handling arrangements undertaken by state and territory ombudsman. Ideally, any tertiary student, whether domestic or international, should be able to access the services of a joined up NSO.

The NSO should also work closely with DoE on the National Code and Support for Students Policy as well as TEQSA to ensure that all organisations have clarity about their functions and their interconnectedness with each other.

With the NSO proposed to receive complaints from 1 February 2025, a targeted campaign to raise awareness with providers and student groups should commence by 1 August 2024, to ensure that all parties are aware of the functions of the NSO.

#### Functions and powers

In investigating complaints, the NSO should do so impartially, transparently and without pre-judgement. With respect to requesting information from a provider, a reasonable amount of time should be afforded to the provider to respond to the request, commensurate with the complexity and detail of the information requested. This timeframe should be at least two weeks for less complex requests and greater as complexity increases.

The NSO should develop clear principles and guidelines that outline their functions, make them publicly available and ensure they are up to date. Any recommendations made by the NSO should build in a clear review and appeals processes.

#### Complaints handling, lodgement and investigations

In establishing the NSO, there is an opportunity to reflect on the operations of the Overseas Students' Ombudsman and identify areas that should be considered and addressed based on current experience. An example of this is communication and engagement with providers regarding complaints. Currently, this communication can be variable. For example, the Overseas Students' Ombudsman sometimes advises a provider of a complaint that they have dismissed out of hand, but sometimes it does not. Similarly, providers are sometimes advised of a decision to redirect the complainant back to the provider where due process has not been followed, but other times it does not advise the provider.

Further, regardless of whether a complaint is dismissed or redirected it is still recorded as a complaint against the provider. When the Overseas Students' Ombudsman reviews a provider's profile, it only considers the absolute number of complaints received from students at the provider, rather than the number of complaints as a percentage of the student body. These issues may result in an unjustly negative perception of the provider based on a skewed presentation of information, which can and should be corrected. IHEA believes issues of consistency of communication with providers as well as the procedural issues identified should be addressed in establishing the NSO to ensure that best practice in handling, communicating and reporting complaints is occurring that is fair, equitable and representative of what is occurring.

In terms of current operations, it is worth noting that the experience of the Overseas Students Ombudsman Scheme is that the Commonwealth Ombudsman's Office investigators, whose primary experience is in dealing with and investigating complaints about administration in Australian Government Departments and



Agencies – which have very substantial resources – process can be slow, bureaucratic and not as focused. This can result in focusing too heavily on points of fine detail at the expense of the core issue, particularly when investigating complaints about independent higher education providers. As a result, the process can be very expensive for independent higher education providers and lead to unexpected and difficult to predict results, which may be difficult to reverse if the provider disagrees with them.

Consideration of the above issues will be important. That said, IHEA supports the NSO being able to address complaints regarding the administrative actions of their higher education provider. It is imperative that the investigation of a complaint by the NSO occurs after a student has exhausted a provider's internal process, and they remain dissatisfied. It would not be appropriate for the NSO to consider a complaint ahead of the internal process being completed, as this will significantly impact the streamlined operations that are proposed. As such, IHEA recommends that the NSO develop guidance and criteria that is made available to students and providers that outlines the basis for the NSO investigating/not investigating a complaint. This will provide clarity and certainty to students and providers.

In considering anonymous complaints, the NSO will need to develop appropriate arrangements i.e. criteria and guidance to ensure the integrity and genuineness of such complaints. There may be very good reasons why a complainant may wish to remain anonymous, but anonymity may also provide a vehicle for making a vexatious and non-genuine complaint. Clarity around how anonymous complaints will be handled will be important so that the NSO can focus its resources to addressing genuine complaints. It is essential, for instance, that providers are afforded an opportunity to challenge the preservation of a student's anonymity if the provider believes there are sufficient grounds for the student's identity to be disclosed.

Rather than progressing an anonymous complaint to the NSO, there may be services other than the NSO that can be accessed that will be more appropriate to the victim's immediate needs, for example, through End Rape on Campus (EROC); National Association of Services Against Sexual Violence (NASASV); and Our Watch Institute. Such an example also identifies an intersection between the specialist Unit in DoE under the National Code and the NSO.

In relation to receiving complaints regarding "teaching provisions and facilities, such as sufficiency of staffing to meet educational, academic and administrative needs of students", this is starting to intersect and overlap with requirements under TEQSA. Under the Higher Education Standards Framework, particularly Domain 3, TEQSA expects higher education providers to demonstrate sufficient staffing to meet the educational, academic support, administrative, and access needs of students undertaking a course of study. Further, the staffing Standards ensure that the level and type of staffing align with the nature and level of the course and the students' needs, which includes individual student access to staff beyond formal teaching. There is potential overlap between the proposed NSO requirements and that of TEQSA, which has the potential to undermine the NSO's ambitions of a streamlined process for escalating complaints that avoids and removes duplication.

Further, the NSO is also proposed to receive complaints regarding "reasonable adjustments, for students living with a disability or experiencing special circumstances", which also intersects with sections 2.2 (Diversity and Equity) and 2.3 (Safety and Wellbeing), which may also represent an area of overlap between the NSO and TEQSA. These are examples of where overlap is possible, and so greater clarity about how this duplication will be addressed will be important and fundamental to the NSO achieving its objectives.

IHEA believes that the NSO should work with other agencies such as TEQSA and DoE and prepare a document that identifies the different functions and roles of each agency, including examples, and with which agency responsibility and oversight sits with. The above examples would be ideal for identifying how TEQSA and the NSO will resolve potential overlap and duplication, which must be avoided.

Further, the NSO has identified that they will consider "Complaints made about the actions of a higher education provider that no longer exists, if a complaint is made within 12 months of the provider ceasing operation". Further detail is needed about how the NSO will be able to ascertain information and evidence regarding a

provider that has ceased operating and what recommendations could be made in such circumstances.

It is noted that if the Student Ombudsman decides to investigate a complaint, it "may form a preliminary view outlining the action it believes the provider should take to resolve the complaint, giving the provider an opportunity to comment. As stated elsewhere in this submission, IHEA believes that the NSO should operate and investigate fairly and without pre-judgement or prejudice. As such, the NSO should not form a preliminary view on any matter that is raised with them before raising the issue with the provider. To do so may undermine the principles that the NSO is operating fairly and without pre-judgement.

With respect to own-motions that the NSO may undertake, it is important that guidance and criteria is developed about what circumstances would trigger the NSO undertaking an own-motion investigation. It is understood that own-motion investigations may be triggered by systemic issues identified through the NSO complaints data or the media as well issues identified through engagement with providers and other stakeholders such as DoE and civil society organisations. Having criteria in place will ensure a robust and defensible approach that underpins own-motion investigations and negate against parties inappropriately using the NSO processes to target a provider – for example a competitor who may try to obtain a commercial advantage.

#### Interactions with regulatory bodies and other complaints bodies

As a general principle, we understand that a Commonwealth Ombudsman's investigation is confidential (as are most pre-enforcement regulatory investigations). There are complex statutory provisions in the current Overseas Student Ombudsman Scheme legislation creating some exceptions to allow disclosure in limited circumstances. Any disclosure arrangements will need to be carefully reviewed to ensure that they appropriate confidentiality necessary to give students and providers confidence in the NSO, while also enabling appropriate disclosure to other regulators and to enable providers to publicly defend themselves against inappropriate and often criticism.

In providing and disclosing information or advice about a provider, whether it be to TEQSA, DoE or the Minister for Education, in the interests of transparency, the provider should be notified that this is occurring or has occurred. Further, greater clarity is required around the circumstances in which the NSO will refer or direct complaints to relevant state and territory or Commonwealth complaints bodies if there is a more appropriate body to handle the complaint.

Greater clarity and guidance about examples of what complaints the NSO would need to refer to a state or territory complaints body will be important. It is imperative that the establishment of the NSO provides a streamlined, simplified process for complaints to be escalated by students who remain dissatisfied once they have been through a provider's grievance/complaint procedures. IHEA believes that the NSO should not duplicate roles of other bodies, be clear in the functions it does and does not undertake and communicate this to all stakeholders and should not add complexity. As such, identifying intersections and clarifying when and why a matter may be referred on by the NSO will support this objective and mission of the NSO.

Furthermore, given the Commonwealth Ombudsman for Overseas Students is already in operation, it will be important for the NSO to work in a connected and joined up way with the Overseas Students' Ombudsman. Consideration should be given to integrating the functions in the Commonwealth Ombudsman for considering complaints from domestic and international students to ensure consistency of decision making, as in most cases both domestic and international students are co-located in a provider. In the event, for example, that the Overseas Students' Ombudsman finds in favour of the provider following the escalation of a student's complaint, there must be mechanisms in place that prevent the student from further escalating their complaint to the NSO since this would inordinately consume the resources of the Commonwealth Ombudsman and the provider. In other words, the final stage of escalation must be either the Overseas Students' Ombudsman or the NSO but not both.

Another consideration is streamlining the complaints that are made in relation to Higher Education Loan Payments. There is an Ombudsman function that considers issues regarding VET Student Loans, yet presumably the NSO will consider complaints in relation to FEE-HELP and HECS-HELP. As outlined elsewhere in this

submission IHEA believes that the NSO should consider complaints from VET and higher education students, and the VSL Ombudsman could consider all loan related complaints, including HELP, subject to the demand for a stand alone function to consider student loans and debts.

### Restorative engagement process

IHEA acknowledges the importance of offering a restorative engagement process between students and providers, should the parties wish to participate.

### Recommendations

With respect to recommendations that are made by the NSO, it is understood enforcement of those decisions will occur by the specialist Unit in DoE under the National Code, although the Unit won't itself accept complaints. These distinctions and clarity should be clearly explained to providers.

In the interests of transparency and fairness, the NSO should build in a review and appeals process for all decisions it makes.

### Reporting

IHEA recommends that the NSO publicly report on the number and nature of complaints and decisions by the Ombudsman. This should occur as de-identified information. With respect to "the number of complaints received per higher education provider", it is imperative that they be reported as a proportion of each provider's total enrolments, otherwise misperceptions will inevitably emerge if reporting is limited to raw numbers.

It is additionally recommended that this be reported as the number of complaints in relation to the number of higher education providers. Findings or recommendations made and details of actions taken should not specify the name of the provider.

### Outreach and education

IHEA believes that the outreach and education function of the NSO is of great importance. IHEA supports an educational and learning approach and believes that the NSO is well placed to share learnings with providers and to build capacity in the sector. This should take the form of webinars and workshops, case studies, frequently asked questions and other guidance materials, as appropriate and needed. IHEA strongly supports the NSO communicating its expectations and details about its role with providers, which should commence from six months prior to complaints being received (i.e. 1 August 2024 for a 1 February 2025 commencement).

### Future policy considerations

IHEA strongly encourages consideration be given to taking a whole of tertiary approach through the inclusion of a process for students in the VET sector, as a priority. Already students can make complaints in relation to the Commonwealth funded VET Student Loans program, so it is imperative that the operation of the Ombudsman will be sufficiently connected and integrated, particularly as some higher education providers are also VET providers.

With respect to charging arrangements, IHEA is concerned about the impact and impost of charges on the independent higher education sector, particularly smaller providers. We believe that the NSO's functions should be supported and resourced by the Australian Government, particularly given the level of regulation and cost imposed on providers by TEQSA and the adverse impact that current policies on international education are having on providers. However, if the Government is committed to introducing a charging arrangement, it should solely be based on the EFTSL of a provider, without the application of any flat/administrative fee components, which have a more adverse impact on smaller providers.

## **HOW WOULD YOU RATE THE MATURITY OF COMPLAINTS HANDLING ACROSS THE SECTOR CURRENTLY?**

To receive TEQSA registration under the *TEQSA Act Higher Education Standards Framework (Threshold Standards) 2021 (HESF)*, higher education providers are required to maintain procedures for resolving grievances of current

and prospective students about any aspect of their experience with the higher education provider, its agents, or related parties.

In practice, the maturity of complaints handling will vary across the higher education sector. Providers will have varying rules in place that govern grievance resolution and how the processes will work in their situation. Currently, if a domestic student is dissatisfied with the decision of their provider, IHEA refers the responsibility for the appointment of an appropriate independent reviewer/mediator when requested to an external and independent party. International students of independent (but not public providers) can already access the Commonwealth Ombudsman with a grievance.

### **WHAT ARE THE CHALLENGES FACED BY PROVIDERS IN EFFECTIVE HANDLING OF STUDENT COMPLAINTS?**

For domestic student grievances, IHEA facilitates the appointment of an external reviewer for its members. This is a different approach that providers undertake for their international students, who can directly contact the Commonwealth Ombudsman, which will investigate complaints. As such, the differing processes depending on whether a student is domestic or international is challenging, especially as providers aim to take a whole-of-organisation approach to their students, irrespective of their origin.

Another challenge for providers will be the congested regulatory space between TEQSA, the DoE Unit and the NSO, noting that the National Higher Education Code to Prevent and Respond to Gender-based Violence will require providers to implement recommendations made by the NSO. Clarity around each organisations functions, with a view to minimising overlap and duplication will be important

### **WHAT DO YOU SEE AS THE CRITICAL COMPONENTS OF A PRODUCTIVE WORKING RELATIONSHIP BETWEEN HIGHER EDUCATION PROVIDERS AND THE STUDENT OMBUDSMAN?**

Ongoing open and transparent communication between the NSO and higher education providers will be critical, perhaps via a monthly newsletter akin to the one distributed by TEQSA to all registered providers of higher education, to ensure that there is clarity around requirements, processes and timeframes. The NSO should aim to work in a collaborative, collegiate and educational way with higher education providers, noting that they will be at different levels of maturity in their complaints handling processes. Ongoing and genuine consultation between the NSO and higher education providers will support a productive relationship.

### **HOW CAN THE STUDENT OMBUDSMAN AND HIGHER EDUCATION PROVIDERS WORK TOGETHER TO ENSURE STUDENTS ARE AWARE OF THE ROLE OF THE STUDENT OMBUDSMAN?**

First and foremost, the role and functions of the NSO need to be settled in detail with the sector as a priority. If the NSO is to receive complaints from 1 February 2025, should engage with the higher education sector to develop information about its functions and operations, which can be shared with students.

Higher education providers can participate in sharing information with their own students. This should be supplemented by awareness campaigns run by the NSO, including utilising social media channels, student groups as well as groups that represent LGBTQIA+, First Nations students, CALD groups and students with a disability. Running webinars will also be important for providers and students alike, with providers being able to facilitate communication with students.

### **NEXT STEPS**

It is understood that DoE has undertaken consultations with stakeholders, which has included IHEA, during June 2024, after which possible adjustments will be made to the proposed model for the NSO. We understand that an overview of the model will be published on DoE's website and circulated with stakeholders.

As outlined elsewhere in this submission, DoE and the NSO should look to undertake education regarding the NSO from 1 August 2025. In addition, we urge DoE and the NSO to be flexible and adaptable to be able to make changes to the model if unintended issues arise. As such, we recommended a continuous improvement and best practice approach be adopted to the operations of the NSO.

## Who We Are

Independent Higher Education Australia Ltd. (IHEA) is a peak body established in 2001 to represent Australian independent (private sector) higher education institutions. Our membership spans independent universities, university colleges and other institutes of higher education, all of which are registered higher education providers accredited by the national higher education regulator, TEQSA or associate members seeking registration.

Our Vision is that: students, domestic and international, have open and equitable access to world class independent higher education in Australia, built on the foundations of equity, choice, and diversity.

Our Mission is to represent independent higher education and promote recognition and respect of independent providers as they contribute to Australian education, the Australian economy, and to society in general. We achieve this by promoting continuous improvement of academic and quality standards within member institutions, by advocating equity for their staff and students, and by delivering services that further strengthen independent providers' reputations as innovative, sustainable, and responsive to the needs of industry and other relevant stakeholders in both higher education and vocational education and training. IHEA's commitment is to excellence, productivity and growth in independent higher education being delivered through a trusted Australian education system underpinned by equity, choice, and diversity.

IHEA members have different missions, scales, and course offerings across the full AQF range (Diplomas to Doctorates). Members comprise:

- Four private universities (Bond University, Torrens University, University of Divinity, Avondale University).
- Five University Colleges (Alphacrucis University College, Moore Theological College, Australian College of Theology, Sydney College of Divinity and SAE University College).
- Six self-accrediting institutes of higher education (Griffith College, Kaplan Business School, Marcus Oldham College, Excelsia College, The College of Law, and the Australian College of Applied Professions).
- Seventy four not-for-profit and for-profit institutions of Higher Education; and related corporate entities.

IHEA members teach approximately 74 percent of the students in the independent sector (i.e., more than 130,000 students) and educate students in a range of disciplines, including law, agricultural science, architecture, business, accounting, tourism and hospitality, education, health sciences, theology, creative arts, information technology, and social sciences.

IHEA holds a unique position in higher education as a representative peak body of higher education providers. Membership in IHEA is only open to providers registered with the Australian regulator – TEQSA. However, some IHEA members are dual and multi-sector providers who also deliver VET and/or English Language Intensive Courses for Overseas Students (ELICOS) courses.

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