National Student Ombudsman

Am I too late?

Understanding the law and how trauma can delay disclosure



November 2026

Content Warning: This document explores sensitive themes related to gender-based violence, including child abuse and trauma. This material may be triggering or distressing for some readers. Reader discretion is recommended.

The National Office for Child Safety has resources and support information available on its website: Get support | National Office for Child Safety

The Department of Education has information and gender-based violence support resources on the Study Assist website: National Higher Education Code to Prevent and Respond to Gender-based Violence - Study Assist, Australian Government

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Executive summary

The *Higher Education Support Act 2003* (HESA) is the main legislation in Australia for funding the higher education sector. It establishes rules for government grants to universities, student loan programs like the Higher Education Loan Program (HELP) which includes HECS-HELP and FEE-HELP, and rules for higher education providers (providers). The Department of Education is responsible for assessing compliance with the HESA.

If a student with a HELP loan experiences 'special circumstances' that make it impracticable for them to complete one or more subjects (units) successfully, the student can apply to have their HELP debt for the relevant units remitted (cancelled). In this report, because it is the terminology the University of Notre Dame Australia (UNDA) uses, we refer to this as a **retroactive withdrawal** application.

Changes to the law mean that, for units with a census date prior to 1 January 2020, the retroactive withdrawal criteria are covered by section 36-20 of the HESA. For units with a census date after that, Division 97 of the HESA applies. However, the criteria for remission are the same regardless of the unit's census date or which section applies.

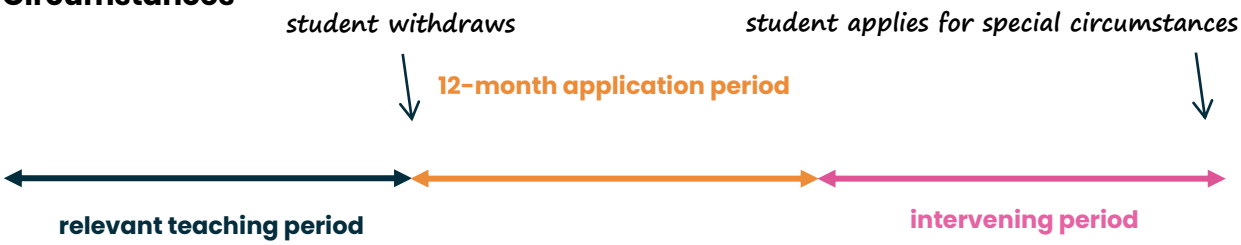
HESA requires providers to have a process for assessing retroactive withdrawal applications. Providers may have different terms for the application process such as 'fee remission', 'remission of HELP debt', 'reversal of fee debt', or 'withdrawal without penalty'. Under the HESA, for a student to be eligible for retroactive withdrawal, the provider must be satisfied that the student's circumstances:

1. *are beyond the person's control; and*
2. *did not make their full impact on the person until on or after the census date for the unit of study in question; and*
3. *make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook or was to undertake the unit.*

Under section 36-20 of the HESA, the retroactive withdrawal application must also be submitted within 12 months of the date the student withdrew or the last day of the relevant teaching period (whichever comes first).

If an application is submitted after the 12-month application period, it is considered a late application. Before the provider can consider whether a late application meets the 3 special circumstances criteria, it must first decide whether to accept the late application at all. HESA says that providers can accept late applications if they are satisfied 'it was, or would not be, possible' for the student to apply before the end of the 12-month application period.

Higher Education Support Act (HESA): late applications for Special Circumstances



HESA s 36-20(1)(f)(ii): Higher education provider decides whether it accepts the late application on the grounds that is would not be, or was not, possible for the application to be made before the end of the **12-month application period**
The higher education provider <u>should not</u> consider the **intervening period**

We investigated how UNDA handled a gender-based violence victim-survivor's retroactive withdrawal applications. Curtis's[1] applications were submitted nearly 8 years after the relevant 12-month application period because the effects of trauma prevented Curtis from disclosing and accessing trauma-specific support sooner.

Under section 36-20(1)(f)(ii) of the HESA, UNDA only had to assess whether it would waive the 12-month application period on the ground that it was, or would not be, possible for Curtis to apply before the end of the 12-month application period. However, UNDA erroneously believed Curtis needed to evidence grounds

[1] We have used the pseudonym Curtis throughout this report to protect the student's identity. Curtis was consulted on the inclusion and representation of his personal information and experiences in this report, and consented to the report prior to publication.

demonstrating why it would not be possible to apply for the entire 9-year period. This was a significantly higher threshold, beyond what the law requires.

Separately, we also found that UNDA failed to substantively consider Curtis's application requesting removal of academic penalties. Usually, if a provider approves a student's retroactive withdrawal application, any associated fail grades are automatically removed (an '**academic penalty waiver**'). This is because the census date in each teaching period (last date to withdraw without paying for the unit) comes before the academic penalty date (the last date to withdraw without *failing* the unit).

Providers should have procedures in place that allow a student's academic penalties to be waived *independently* of the retroactive withdrawal application. This is because an academic penalty waiver does *not* lead automatically to retroactive withdrawal (financial waiver). The decision to waive academic penalties - and the associated application period - is entirely a matter for the provider to decide in accordance with its policies and may have a different or lower 'threshold' than retroactive withdrawal, as it is not governed by the HESA. In some cases, it may be reasonable for a provider to remove a student's fail grade but not approve the financial waiver. We found that UNDA wrongly stated that it could not consider Curtis's academic penalty request due to HESA limitations, even though the academic penalty waiver can be (and should have been) considered separately.

We also found that despite the highly sensitive nature of the application and Curtis's psychiatric disability, UNDA's handling of the applications was perfunctory and not person-centred nor trauma-informed, which caused him significant harm. The *National Higher Education Code to Prevent and Respond to Gender-based Violence 2025* (the National Code) came into effect on 1 January 2026. Although the National Code was not in effect at the time of this complaint, it now requires providers to ensure responses, practices and support services are safe, trauma-informed and person-centred (Standard 4.1).

This report highlights the requirements of the National Code relevant to the circumstances raised in this matter, including the provision of trauma-informed and person-centred responses to disclosures of gender-based violence. These requirements include equipping staff receiving disclosures to understand the impacts of trauma on a person's memory health and wellbeing – including how

trauma may affect reporting timeframes and engagement with institutional processes (Standards 3.8 and 3.9).

When we raised our concerns with UNDA, it took steps to apologise for its errors and improve its practices for assessing retroactive withdrawal applications, including trauma-informed engagement. We acknowledge that UNDA has worked constructively to resolve this complaint throughout the NSO investigation.

Noting UNDA has already taken steps to resolve the individual aspects of the complaint by recently approving Curtis's retroactive withdrawal applications and apologising, this report makes 3 recommendations to address the systemic issue identified with UNDA's handling of 'out of time' retroactive withdrawal applications (received after the 12-month application period).

Key findings



Key findings

HESA 12-month application period

Through this investigation we identified that:

- other providers may also be incorrectly considering the intervening period after the 12-month application period
- the relevant Department of Education guidance could be clearer, which we have highlighted to the Department.

We encourage all providers to review their practices and act if they identify misalignment with HESA.

The National Higher Education Code to Prevent and Respond to Gender-based Violence 2025 (the National Code)

We encourage all providers to ensure that their administrative processes are safe and trauma-informed, including recognising the impacts of trauma on disclosure, delayed reporting, and engagement with processes.

Complaint background

In 2016, Curtis enrolled in the medicine program at the University of Notre Dame Australia (UNDA) as a Commonwealth-supported student utilising HECS-HELP assistance.

Curtis is a victim-survivor of prolonged childhood sexual abuse, including abuse perpetrated within a Catholic educational institution. Curtis told us that at the time of his enrolment at UNDA, the effects of that abuse and his associated, then undiagnosed psychiatric disability - including trauma-related avoidance, dissociation, shame and difficulty trusting Catholic institutions - prevented him from disclosing the abuse or accessing trauma-specific support.

Curtis told us that in 2016 and 2017, he received fail grades by a small margin in both attempts of the full-year foundational medicine units due to experiencing re-traumatisation and intensified PTSD symptoms. On 7 December 2017, Curtis wrote to UNDA requesting advice about applying for retroactive withdrawal from the program prior to the release of 2017 examination results and UNDA provided the form the following day. On 20 December 2017, Curtis applied for retroactive withdrawal for his studies at UNDA throughout 2016-2017. On 21 December 2017, UNDA suspended Curtis's enrolment due to unsatisfactory academic progression.

2018 retroactive withdrawal application

UNDA received Curtis's retroactive withdrawal application on 2 January 2018. Retroactive withdrawal is UNDA's process for assessing applications for remission of higher education loan program (HELP) debt under the *Higher Education Support Act 2003* (HESA) and removal of academic penalties (fail grades).

Curtis was impacted by a visual impairment throughout his studies, so his 2018 application was made on the grounds of physical disability. Curtis was unable to include information about the impact of re-traumatisation on his studies at UNDA or his psychiatric disability as these factors were not yet disclosed, clinically assessed or diagnosed.

On 6 February 2018, UNDA denied both Curtis's applications for retroactive withdrawal. UNDA denied the 2016 application as it was submitted outside of the 12-month application period defined under section 36-22 of the HESA. UNDA denied the 2017 application mainly because it assessed that Curtis had not evidenced that the full impact of his vision impairment was experienced on or after the relevant Census date.

In the retroactive withdrawal outcome letter, UNDA offered Curtis the opportunity to appeal the 2017 application outcome as it was a reviewable decision under section 206-1 of the HESA. However, Curtis told us that severe, then undiagnosed trauma-related psychiatric symptoms impaired his capacity to appeal within the stated 28 working day period.

2025 retroactive withdrawal application

In 2021, Curtis was diagnosed with complex post-traumatic stress disorder (cPTSD), multiple anxiety disorders, chronic depressive disorder and enduring personality change. The 2021 psychiatric report states:

> **'...in 2016, when Curtis began medical studies, the ecclesiastical environment of the university he attended caused him retraumatisation and intensified PTSD symptoms, which finally ended his efforts to complete a medical degree.'**

On 29 July 2025, Curtis applied again for retroactive withdrawal for 2016-2017 to UNDA and included the 2021 psychiatric report as evidence. The report contained highly sensitive information and disclosure of the abuse perpetrated against Curtis as a child. The usual decision timeframe per 5.3.2 of UNDA's *Retroactive Withdrawal Policy* is 28 days.

On 30 July 2025, Curtis also sent a separate supporting letter directly to the National Dean of the School of Medicine, which provided further context on the grounds of his application and highlighted the importance of removal of academic penalties. Curtis requested that his application was expedited as a reasonable adjustment:

> **'Given the severity of my illness and the fact that any engagement with the University is highly triggering, I respectfully request that this matter be addressed as a priority. I would appreciate receiving a formal outcome within 14 days of the lodgement of my Application for Retroactive Withdrawal (29 July 2025).'**

On 1 August 2025, Curtis sent a follow up email with a letter addressed to the National Dean of the School of Medicine and the Vice Chancellor requesting immediate attention to his application and reiterating his request for the application to be assessed within 14 days, by 12 August 2025.

On 13 August 2025, Curtis submitted a complaint to the NSO as 14 days had passed since his submission of the retroactive withdrawal application, and he had not yet received formal acknowledgement of his application from UNDA nor the outcome.

On 27 August 2025, UNDA sent Curtis an outcome letter advising that it had denied his request for retroactive withdrawal under 5.2.2 of its *Retroactive*

Withdrawal Policy because the Campus Registrar, in their absolute discretion, had decided to reject the application on the basis that it was an 'out of time application'.

The outcome letter from the Campus Registrar, stated:

> **'…the medical report in support of this application does not demonstrate that it was impossible for the applications to be made within the timeframe stipulated in [the University's] General Regulations 2.16.1.'**

On 28 August 2025, Curtis sent an appeal to UNDA requesting a review of the decision and on the same day, UNDA sent Curtis a revised outcome letter.

The revised outcome letter apologised that the application outcome was communicated to Curtis 'later than within the usual timeframe' but still did not acknowledge Curtis's disclosures, request for an expedited assessment of his application on the grounds of his disability, nor the sensitive nature of the information shared in his application.

Additionally, neither of the August 2025 outcome letters outlined whether Curtis's application for removal of academic penalties had been considered as an alternative to both the financial and academic penalties being granted, noting the granting of a withdrawal without academic penalty does not have to lead automatically to the remission of a HELP debt.

On 10 September 2025, Curtis wrote to UNDA again seeking to appeal the Campus Registrar's decision not to accept his out of time application and raised several concerns about the handling of his applications. In response, UNDA advised Curtis that there was no internal appeal mechanism for decisions made under 5.2.2 of UNDA's *Retroactive Withdrawal Policy*. UNDA referred Curtis to the external appeal options available to him.

NSO Investigation

When the NSO received Curtis's complaint in August 2025, we were concerned about UNDA's actions and decisions, and on 28 October 2025 asked UNDA whether it could assist further with Curtis's complaint. On 11 November 2025, UNDA's first response outlined that it did not intend to take any further action because Curtis's application was made out of time and the outcome was within the Registrar's discretion.

We sent a follow up inquiry on 13 November 2025 to obtain further information and determine an appropriate complaint resolution pathway. On 21 November 2025, UNDA responded.

We formed the view that UNDA's second response was legalistic and defensive in tone. The response did not fully engage with the NSO's query on how UNDA determined whether it was possible for the 2025 retroactive withdrawal application to be made within the prescribed application period nor how the threshold was communicated to students.

UNDA stated:

> **'Curtis wrongfully claims that a partially redacted confidential psychiatric report dated 26 April 2021, which he provided to the University, provides evidence which shows he was unable to make an application in the intervening years. It does not. The report was produced in April 2021; it is addressed to [Curtis's] then legal representatives as part of a legal process he was then involved in. It responds to a series of specific questions being asked by his lawyers for the purpose of the legal process that was being undertaken at the time. It does not cover the period after April 2021. It also does not specifically deal with the question at hand, or provide evidence to suggest he was not able to have made his application within the almost decade which has passed since he undertook**

these courses (including in the time prior to the writing of the report in April 2021).'

On 9 January 2026, we issued an investigation notice to UNDA outlining a summary of what had occurred from Curtis's perspective, what Curtis was seeking, our preliminary concerns, and a further request for information. The NSO also provided an opportunity for UNDA to outline any action it intended to take should wrongdoing be identified.

Response and action to resolve complaint

On 13 February 2026, UNDA responded to our investigation notice. UNDA's response was reflective and constructive. However, despite its reflection, UNDA did not apologise to Curtis at this point in the investigation, though it did take some immediate steps to resolve the complaint, including:

- waiving the academic penalty in relation to the retroactive withdrawal requests for 2016-2017
- sending an updated letter to Curtis that advised of the academic penalty waivers and acknowledged that 'a more explicitly person-centred and trauma-informed approach to engagement and communication would have been preferable'.

Additionally, UNDA outlined to the NSO its intention to:

- 'Seek guidance, in consultation with the NSO, from the relevant Commonwealth Secretary/Department on whether any pathway exists to consider remission/waiver of the financial penalty, and what information would be required to do so consistently with the Commonwealth framework.'
- 'Strengthen the University's practices going forward through clearer escalation pathways to appropriately trained support staff, improved decision-maker guidance on proportionate requests for clarification, and more trauma-informed correspondence and staff guidance—while maintaining procedural fairness and compliance.'

Our view was that it was open to UNDA to accept Curtis's late applications under the HESA, because HESA only required retroactive withdrawal applicants to include evidence demonstrating why they were unable to apply within the statutory 12-month application period – not the entire intervening period (discussed further under **finding 1**).

Without sharing details about this case, we consulted with the Department of Education (Department) as the responsible agency for HESA about our interpretation of the 12-month application. The Department confirmed that our interpretation of the 12-month application period was correct. We also highlighted to the Department our concerns that there may be other providers misinterpreting the 12-month application period in HESA in the same way. Although the Department stated it has not identified evidence of a widespread issue, it confirmed that this feedback would be considered in the current review of the Higher Education Administrative Information for Providers (AIP).

Although the National Code was not in effect at the time of Curtis's disclosure, the Department's Gender-Based Violence (GBV) Regulator confirmed that the application of the National Code is intended to establish expectations that providers maintain systems, policies and practices that support safe and trauma-informed responses to disclosures.

UNDA's administrative error during the investigation

In April 2026, Curtis reviewed his Australian Taxation Office (ATO) record and noticed the full fee remission for his 2016 and 2017 enrolment at UNDA had been processed, so he informed the NSO. In response, the NSO sought confirmation and further information from UNDA as, at the time, neither the NSO nor Curtis had been notified by UNDA that this had occurred.

In May 2026, UNDA advised the NSO that it had inadvertently processed the fee remission at the same time as the academic penalty waiver due to administrative error. UNDA further advised that 'considering all the circumstances, the University has decided to let the full fee remission stand'. UNDA also reiterated its approach to fee remission eligibility remained consistent with its February 2026 response, and that it remained open to considering eligibility based on guidance from the Department of Education and NSO.

When UNDA wrote to Curtis in May 2026 separately to advise of this error, UNDA did not apologise and did not clearly explain to Curtis that it was waiting for guidance from the NSO and Department of Education on the HESA evidentiary requirements to assess his requests to waive the application period under section 36-20(1)(f)(ii) of the HESA.

Curtis told the NSO that this correspondence was extremely distressing as it further minimised his experience and appeared that UNDA was happy to accept its accidental remission of the fees but would not assess his application on its merits due to it being submitted after the relevant application period.

On 27 July 2026, UNDA formally apologised to Curtis for its handling of his 2025 applications. The letter also acknowledged the distress caused by the language in previous UNDA correspondence, informed him of the correct assessment of his applications, and confirmed that he was entitled to the remission of debt for 2016-2017 that it had inadvertently processed in April 2026.

Findings and recommendations

We acknowledge that UNDA has already taken some appropriate steps to remediate Curtis's experience following receipt of our investigation notice, including remission of academic and financial penalties for his studies between 2016-2017 and apologising to Curtis. We welcome UNDA's reflection, remedial action, commitments, and responsiveness to our investigation. However, we recognise that there are further lessons for UNDA to learn from this complaint. Given the seriousness of what went wrong in Curtis's case, the consequential impact on Curtis and the systemic issues identified, we have outlined our findings and made 3 recommendations.

Although the NSO acknowledges the National Code took effect on 1 January 2026 and was therefore not in effect at the time of this complaint, Curtis's experience of GBV is relevant to UNDA's handling of his retroactive withdrawal applications. We think it is informative to refer to how the National Code would have applied to this complaint, to assist with ongoing compliance.

Finding 1: UNDA did not appear to correctly apply the HESA when assessing Curtis's retroactive withdrawal applications in 2025

The NSO considered whether UNDA's actions in assessing Curtis's 2025 retroactive withdrawal applications appeared consistent with its *Retroactive Withdrawal Policy* and the HESA.

When assessing Curtis's 2025 applications, UNDA had denied the applications on the grounds that Curtis had not evidenced that it was 'impossible for the applications to be made within the timeframe'.

UNDA told the NSO on 21 November 2025 that it required Curtis to evidence that it was not possible to apply between the end of the relevant application periods (between 2017-2018) and the date of Curtis's retroactive withdrawal submissions (in 2025).

When dealing with retroactive withdrawal applications for Commonwealth supported students with HECS-HELP assistance, section 36-20(1)(f) of the HESA requires that applications must:

- be made **before the end** of the *relevant application period* defined under section 36-22 of the HESA, or
- the higher education provider should consider whether it waives the relevant application period and accepts the late application.

The 'relevant application period' is defined under section 36-22 of the HESA as the 12-month period that commences the day after the date of withdrawal (if the student withdrew) or the last date of the relevant teaching period.

Therefore, under the HESA, providers only have to assess whether it was possible for the application to be made *before* the end of the relevant application period –

being either 12 months from the student's withdrawal date (if applicable) or the end of the relevant teaching period. HESA does not have any requirements for the period between the end of the application period and the date of submission. Accordingly, we found that UNDA appears to have incorrectly interpreted this provision of HESA by extending evidentiary requirements far beyond what was required.

In addition, under section 36-20(1)(f)(ii) of the HESA, providers should assess if it 'would not be, or was not, possible' for the application to be made before the end of the application period. However, in the August 2025 outcome letters, UNDA indicated it assessed whether it was *impossible*:

> **'The medical report in support of this application does not demonstrate that it was impossible for the applications to be made within the timeframe stipulated in General Regulations 2.16.1'**

In interpreting the meaning of the 'not possible' threshold described under section 36-20(1)(f)(ii) of the HESA, we considered relevant case law from the Administrative Review Tribunal (ART) and the Federal Court of Australia. For instance, in *Mitchinson and Secretary, Department of Education* [2025] ARTA 2178**,** the Tribunal outlined an established threshold relating to s 36-20(1)(f)(ii) and its similar provisions across the HESA at [35]:

> **'The construction and application of the term 'was not possible for the application to be made before the end of that period' has been the subject of several previous decisions of the then Administrative Appeals Tribunal. It has been construed as meaning 'reasonably possible [in] all the circumstances', as requiring 'a very serious constraint to be placed on a person's ability to act' or that 'it was unachievable or unobtainable'.'**

The Federal Court of Australia in *Pulvirenti v Secretary, Department of Education* [2024] FCA 1106 at [30] explores the issue of circumstances that occur after the 12-month application period:

> **'A provider (and the Tribunal) would err if it decided the question of waiver according to its view as to whether there exists a reasonable explanation for any delay between the end of the expiry of the application period and the date on which the application was ultimately made. [Our emphasis.]'**

The Federal Court of Australia in *Pulvirenti* clarifies further at [35]:

> **'In determining whether it would not be possible for a student to make an application for remission within the application period, it is not impermissible for a decision-maker to have regard to relevant facts and circumstances existing at other times.'**

Thus, case law states:

- the 'not possible' threshold can encompass a broad scope of circumstances impacting a student's ability to act during the 12-month application period
- providers should only consider circumstances beyond the 12-month period to the extent that they elucidate circumstances *during* the relevant 12-month application period.

UNDA used the term 'impossible' in its correspondence with Curtis rather than 'not possible'. While they have similar meanings, Curtis felt the term set an extremely high bar that does not take into account the significant impact of his psychiatric disability on his ability to apply.

Our view is that UNDA unfairly narrowed the scope of the meaning of 'not possible' in Curtis's case. UNDA's handling of Curtis's 2025 retroactive withdrawal applications caused Curtis significant distress and further harm. It is clear from the 2021 psychiatric report that Curtis's untreated psychiatric disability and the effects of trauma placed a very serious constraint on his ability to disclose the abuse and engage with an application process requiring him to do so.

It was also not possible for Curtis to include information about his psychiatric disability and grounds for meeting the special circumstances criteria prior to the 2021 clinical assessment and diagnoses. Burdening him with having to provide evidence of an application delay of up to 9 years was unreasonable, unfair and unjust. Deciding not to consider Curtis's applications also appears contrary to the law, and compounded the re-traumatisation he had already experienced as a victim-survivor.

Further, we found UNDA's interpretation of HESA disproportionally disadvantaged Curtis, as his psychiatric disability prevented him from disclosing the abuse and accessing trauma-specific support sooner. Although UNDA's actions and decisions were consistent with its *Retroactive Withdrawal Policy*, 5.2.2 of the policy does not outline how the Campus Registrar will apply their absolute discretion when deciding whether to accept or reject the application. This is not transparent for applicants and, in this case and possibly others, it veiled the erroneous interpretation of the HESA requirements.

UNDA also obstructed Curtis from being able to access an internal review process. UNDA's *Retroactive Withdrawal Policy* states that there can be no appeals from a decision to not accept an out of time application.

However, a decision made under ss 36-20(1), 97-25(2) or 104-25(1) of HESA (i.e., a decision to refuse remission or re-credit of a person's HELP balance in respect of HECS-HELP or FEE-HELP assistance received for a unit) is a reviewable decision. Therefore, where a provider refuses remission or re-credit on the basis that the relevant application was not made before the end of the application period and the provider has decided not to waive the application period, the provider has made a reviewable decision. UNDA should make clear in its Retroactive Withdrawal Policy that students can apply for internal review of such a decision.

This error burdened Curtis with having to repeat his concerns, commence a lengthy external review process, and share highly sensitive information again, which is unjust and the antithesis of a trauma-informed approach.

Key learnings for the sector

Policy transparency is crucial to ensure that students understand how decisions are made and what information is taken into consideration. 'Absolute discretion' should not obscure what is considered by the decision-maker and why.

When assessing late applications, higher education providers must ensure the relevant test is whether 'it was or would not be possible' to apply within the relevant 12-month period. Circumstances in the intervening period after the 12 months until the date the student submits their application should only be considered to the extent that they explain circumstances during the application period.

The 'not possible' threshold should be considered as a broad scope of circumstances that impact a person's ability to act and ultimately, whether it was 'reasonably possible in all the circumstances' to apply before the end of the 12-month application. Our view is that this test should have regard to how the effects of trauma can delay disclosure and engagement in processes.

Providers are encouraged to utilise HELP contacts - Department of Education, Australian Government for any enquiries regarding HELP and its associated schemes.

Finding 2: UNDA failed to substantively engage with Curtis's academic penalty waiver requests

The NSO assessed UNDA's actions and decisions in relation to Curtis's request for academic penalty waivers in 2025. We considered the information available to UNDA at the time of Curtis's requests, and relevant sector guidance.

On 28 July 2025, Curtis included the following request highlighting the importance of removal of fail grades from his academic transcript in his retroactive withdrawal application addressed to the Director of Student Administration:

> **'I am not seeking academic advantage or reassessment but simply ask that my academic transcript no longer reflect a period of study undertaken under extreme and disabling conditions. I hope that this request can be considered with compassion, given the nature of my circumstances and the supporting clinical evidence.'**

On 30 July 2025, in the letter addressed to the National Dean of the School of Medicine, Curtis also clearly articulated his academic penalty waiver request by itemising what he was seeking:

> **'I respectfully request that the University:**
>
> - **grant retroactive withdrawal without academic penalty for both failed MED100 units in 2016 and 2017;**
> - **remove fail grades from my academic transcript immediately; and**
> - **consider HELP debt remission as appropriate.'**

UNDA's *Retroactive Withdrawal Policy* allows for students to apply for either financial penalty waiver, academic penalty waiver or both. Although we

acknowledge that Curtis applied for both financial and academic penalty waivers, there was sufficient flexibility in UNDA's policy for it to decouple the requests and assess his eligibility for academic penalty waivers independently.

An internal memorandum from the National Dean of the School of Medicine to the Executive Dean (Faculty of Medicine, Nursing, Midwifery & Health Sciences) shows that UNDA considered Curtis's application for both financial and academic penalty waivers and did not support them:

> **'This former student has requested a RAWD [retroactive withdrawal] relating to psychiatric illness during the course of his studies. The documentation provided outlines a significant history of trauma and PTSD. He subsequently enrolled in a Juris Doctorate course in 2020 (although he withdrew). There has been considerable time delay beyond the 12 month period for RAWD, specifically 8 years. On this basis the School of Medicine does not support the application for RAWD.'**

It is apparent that from July 2025, the School of Medicine was aware of Curtis's significant history of trauma and trauma-related psychiatric impairment during his studies. However, the School of Medicine decided it would not support both waiver applications based on an erroneous interpretation of the HESA requirements which only apply to financial penalty waivers. UNDA had an opportunity to separately consider Curtin' academic penalty waiver request noting the Campus Registrar had 'absolute discretion' to consider the out of time application under clause 5.2.2 of the UNDA's *Retroactive Withdrawal Policy* and assess the application on its merits.

We found that UNDA unfairly and incorrectly applied the standard at section 36-20(1)(f)(ii) of the HESA to Curtis's requests for an academic penalty waiver. HESA does not govern how higher education providers should make decisions on applications for academic penalty waivers – this is a matter for that higher education provider to decide under their own policy, and in this case UNDA's policy outlined that it had 'absolute discretion' to accept late academic penalty waiver applications.

UNDA's handling of Curtis's application for academic penalty waivers appears contrary to part 42.6 of the Department's Administrative Guidelines for re-crediting, remission and repayment:

> **'A provider should have procedures in place that allow a person's academic grades to be revised independent of re-crediting of their HELP balance, remission of their HELP debt and/or refund of up-front payments.**
>
> **Decisions relating to re-credit, remission, reversal and/or repayment are made by providers as the delegate of the Secretary of the department. On the other hand, decisions relating to academic standing are a matter entirely for the provider. The granting of a withdrawal without academic penalty does not have to lead automatically to the remission of a HELP debt or the reimbursement of fees.'**

Given Curtis was explicit about the importance of the academic penalty waiver request, UNDA should have independently assessed Curtis's request for an academic penalty waiver. We acknowledge that when the NSO raised this matter with UNDA in our investigation notice, UNDA took immediate action to waive the relevant academic penalties. However, the lack of responsiveness to Curtis's original written request has highlighted disparity between UNDA's willingness to respond to the NSO and to Curtis. It should not take intervention from the NSO to yield a responsive and fair outcome.



Key learnings for the sector

Academic penalty waivers are a decision entirely for the provider and are not governed by the HESA, because waiving an academic penalty does not automatically lead to remission of fee debt.

Providers should have a clear policy and procedure for assessing academic penalty waivers *independent* of remission of fee debt or fee refunds.

If a student applies for a waiver of both financial and academic penalties, and the provider determines that the student is not eligible for remission of fees under HESA, it should still consider separately whether there are circumstances that warrant an academic penalty waiver.



Recommendation 1

We recommend that **within 6 months of this report**, UNDA completes an internal audit of all 'out of time' retroactive withdrawal applications received after the date the policy came into effect (30 April 2019), as defined under clause 5.2 of its Retroactive Withdrawal Policy and:

a. identifies any unlawful decisions

b. rectifies these decisions by informing the relevant parties and processing amendments using the Tertiary Collection of Student Information (TCSI) system

c. updates the NSO on the finalisation of these amendments.

Recommendation accepted



Recommendation 2

We recommend that **within 28 days of this report**, UNDA updates its *Retroactive Withdrawal Policy* to explicitly align with the correct interpretation of the *Higher Education Support Act 2003,* including absolute clarity on:

a. how academic penalty waivers are assessed independently of applications for remission under HESA

b. what period of time and factors are considered under clause 5.2 and when decisions will be communicated to applicants

c. that decisions made under clause 5.2 are reviewable

Recommendation accepted

Finding 3: UNDA's engagement with Curtis in relation to his 2025 applications was not trauma-informed nor person-centred

The NSO considered UNDA's engagement with Curtis about his 2025 retroactive withdrawal applications.

In our view, UNDA's final revised outcome letter of 28 August 2025 denied Curtis's applications in a detached manner, not considering the impact of the decision on him as a victim-survivor.

Irrespective of whether UNDA believed it was restricted by HESA at the time, it should have considered what other trauma-informed options were open to it such as considering whether it could waive his academic penalties.

UNDA's handling of Curtis's 2025 applications was perfunctory and not person-centred nor trauma-informed, as reflected in the standard phrasing and brevity of its response. UNDA did not sufficiently engage with the evidence and Curtis's human experience when assessing his retroactive withdrawal applications.

Despite the highly sensitive nature of Curtis's disclosures, and awareness of senior executive staff (notwithstanding UNDA's incorrect interpretation of HESA at the time) UNDA failed to respond to his applications with care and compassion.

The 28 August 2025 revised outcome letter stated:

> ***Outcome***
>
> *The Policy: Retroactive Withdrawal, 5.2.2 states that if "a Student makes an out of time application, the Campus Registrar will in their absolute discretion decide whether to accept or reject the application." I have considered the application in light of this. Your request for Retroactive Withdrawal is* ***denied.*** *The medical report in support of this application does not demonstrate that it was impossible for the applications to be made within the timeframe stipulated in General Regulations 2.16.1.*
>
> ***Your student record will remain as previously, noting the outcome of this application.***
>
> *Due to the complexity of this case and the need for full consideration, we apologise that the outcome was communicated to you later than within the usual timeframe.*

UNDA had options to respond to Curtis's applications in a more person-centred and trauma-informed manner. For instance, UNDA could have:

- created an environment to support a safe conversation for Curtis's disclosure, understanding the impacts that trauma has on memory, recall, delayed disclosure and articulation of events
- sought clarification or further information from Curtis
- offered Curtis a phone call or meeting to discuss his applications
- considered waiving Curtis's academic penalties
- consulted with the Department of Education HELP policy team about evidentiary requirements for consideration of remission of HELP debt under HESA

- treated the 2025 application as a request for a reconsideration of the 2018 application outcome, which HESA permits[2]
- acknowledged Curtis's disclosures and experience, including recognition of the impacts of trauma on disclosure, delayed reporting and engagement with processes
- offered to refer Curtis to support services responsive to his personal circumstances having regard to his safety and wellbeing.

When the NSO brought this to UNDA's attention in the investigation notice, UNDA reflected on its approach to its communication with Curtis:

> **'With the benefit of hindsight, the University acknowledges that this approach may have felt impersonal and clinically framed, particularly given the sensitive nature of what Curtis disclosed in 2025. The University recognises that when a person shares deeply personal information, the way an institution responds can either help restore a sense of safety and dignity, or inadvertently compound distress—regardless of the technical correctness of the decision.**
>
> **The University accepts that a more explicitly person-centred and trauma-informed approach would have been preferable. This would have included: acknowledging the courage and difficulty involved in making such disclosures; explaining the decision and any evidentiary requirements in clear, plain language; avoiding overly formal or generic phrasing; and proactively offering support options and pathways for further conversation, including a clear point of contact. The University also acknowledges the importance**

[2] Under HESA s 209-5(1) the reviewer may 'reconsider the decision if the reviewer is satisfied that there is sufficient reason to do so'. There is no time frame in this section, and the lodgement of a further application on the same subject matter with new evidence could constitute 'sufficient reason.'

of handling sensitive information with care and respect, including appropriate attention to privacy.'

It is good that UNDA reflected on its approach, and we agree that these are positive improvements for UNDA in handling future matters. However, this does not change Curtis's experience, nor the harm caused to him. Greater care and commitment to delivering trauma informed engagement could have improved Curtis's experience and prevented the need for him to seek external review from the NSO.

We acknowledge that UNDA attempted to keep Curtis informed throughout the investigation. However, Curtis told the NSO that UNDA's tone and choice of language throughout its handling of his applications and during the investigation has been 'distressing, depersonalising and insufficiently trauma-informed', which caused him 'further psychiatric harm and personal injury'.

We were pleased to see UNDA's 27 July 2026 apology to Curtis. The letter clearly acknowledged the distress UNDA had caused, informed him of the correct assessment of his applications, and confirmed he is entitled to the remission of debt for 2016-2017 that UNDA inadvertently processed in April 2026. Though it occurred late in our investigation, it demonstrated UNDA had reflected on this complaint and how it could make things right.

UNDA's handling of Curtis's 2025 applications has also raised concerns for the NSO about how UNDA's approach to assessing and communicating retroactive withdrawal outcomes may have impacted other past and current students.

The National Code requires providers to have current systems, policies and practices in place to prevent and respond to gender-based violence including:

- A Whole-of-Organisation approach to preventing and responding to gender-based violence that prioritises safety and support of its students and (Standard 1). In the context of the National Code, the whole of organisation approach refers to a coordinated and evidence informed strategy that is implemented across all areas of a provider's operations. Action to prevent and ensure safe responses to gender-based violence cannot be effective if it is the sole responsibility of a single Department,

faculty or team, or if it is adopted in an inconsistent way across a provider's community.

- Safe environments, systems and policies (Standard 2) and responses, practices and support services that are safe, trauma-informed and person-centred (Standard 4).
- Equipping staff receiving disclosures to understand the impacts of trauma on a person's memory, health and wellbeing including how trauma may affect reporting timeframes and engagement with institutional processes (Standard 3).

The GBV Regulator's published Guidance for Higher Education Providers emphasises the key concept of Trauma-informed practice as foundational to the National Code, at:

- the systems level, through policies and processes, and
- the interpersonal level, through:
    - fostering safe, respectful and trusting relationships
    - responding sensitively to disclosures and facilitating recovery and healing
    - recognising the impacts of trauma and
    - minimising the risk of re-traumatisation.

In this context, while the National Code does not retrospectively apply, it establishes clear expectations for how similar matters should be approached moving forward.

Key learnings for the sector

The GBV National Code ensures responses, practices and support services are safe, trauma-informed and person-centred (Standard 4.1)

Under the National Code providers are required to ensure the provision of **trauma-informed and person-centred** responses to disclosures of gender-based violence. These requirements include **equipping staff receiving disclosures to understand the impacts of trauma** on a person's memory, health and wellbeing - **including how trauma may affect reporting timeframes and engagement with institutional processes** (Standards 3.8 and 3.9).

Recommendation 3

We recommend that, **within six months**, UNDA provide the NSO with an implementation plan and progress report, including how it has addressed the findings and recommendations relating to the prevention and response of gender-based violence arising from this complaint and demonstrating the actions it has taken to progress the two commitments below outlined in its 13 February 2026 correspondence.

Commitment 1:

Review of approach to sensitive matters

Clearer internal pathways for escalation to specialist support, guidance for decision-makers on how to request clarification in a proportionate and trauma-informed way, and correspondence that explains requirements in plain language, offers choices about how information can be provided (including via a support person

where appropriate), and proactively connects students to support options—while maintaining procedural fairness and compliance.

Commitment 2:

Strengthening mental health framework

This case has highlighted the importance of trauma-informed practice not only in interpersonal disclosures, but also when sensitive information is provided through administrative processes, such as application forms. Where disclosures arise in this way, it is important that staff responsible for receiving and assessing the information are equipped to respond with care, clarity and appropriate escalation—so that administrative processes do not inadvertently add to distress.

Consistent with the University's disclosure pathways and the specialist role of Respect Officers in providing coordinated support, the University is strengthening training and guidance for staff who handle such applications and reviewing relevant policies, procedures and referral pathways to ensure that future responses are more consistently person-centred, trauma-informed and responsive to student needs and concerns.

Recommendation accepted

THE UNIVERSITY OF NOTRE DAME AUSTRALIA

Office of the Vice Chancellor

4th November 2026

116-26L

Mr Iain Anderson
National Student Ombudsman

[redacted]

Dear Mr Anderson,

Response to Draft NSO Report entitled "Am I too late? Understanding the law and how trauma can delay disclosure"

In the letter and draft Report dated 22 September 2026, the National Student Ombudsman **(NSO)** made a number of findings and observations regarding the University of Notre Dame Australia's **(UNDA)** handling of an application for retrospective withdrawal. The University appreciates the care with which the National Student Ombudsman has approached this matter. The University has carefully considered those findings and recommendations and is grateful for the opportunity to respond.

The University accepts the central findings of the draft report and is committed to learning from them; however acknowledges that, while its approach fell short in important respects, the University acted in good faith throughout its response to a complex and sensitive matter.

The University acknowledges that its correspondence did not adequately recognise the former student's circumstances or communicate with the degree of sensitivity expected by the NSO in those circumstances. Although the correspondence was intended to explain the University's understanding of the applicable requirements, the University accepts that communications of this kind must combine clarity and procedural rigour with empathy and a trauma-informed approach.

The University has apologised to the former student for the way in which the application was handled and for the additional distress caused by the University's decision and communications. UNDA has strengthened its training, guidance and processes to reduce the likelihood of similar issues arising in the future. UNDA has also made commitments to the former student and the NSO in this regard and is pleased to confirm those commitments as accepted recommendations arising from the Report (please refer to Attachment on UNDA's response to the NSO's recommendations).

The University further accepts the NSO's finding that it applied the incorrect legal test when considering the retrospective withdrawal application. The University also acknowledges the NSO's interpretation of the evidence required where an application is made outside the ordinarily applicable period.

In relation to the former student's retroactive withdrawal application, UNDA acknowledges that, at the relevant time, its policies incorrectly set out a test for retroactive withdrawal to be applied in the circumstances; and that in adhering to its policy, the University did not apply the correct test in the circumstances. As soon as the University was made aware of this, UNDA has removed the relevant fail grades and remitted the associated fees. UNDA has further worked to amend its overall approach accordingly, including updating its policy and taking steps to identify any students who may have been adversely affected by the interpretation previously adopted, with a view to ensuring that those matters are reconsidered where appropriate. UNDA is grateful to the NSO for identifying the issue, enabling corrective action to be taken and ensuring that UNDA's policies and practices are now better aligned with the requirements of the legislation.

The University accepts the NSO's observation that aspects of its correspondence could and should have been more trauma-informed in tone and has taken that lesson to heart. For context though, the University's requests for further information were intended to support a fuller assessment of the former student's application, not to question or diminish their lived experience; as the evidence provided did not align with the evidentiary standard that the University understood the former student was required to meet. The University recognises, however, that intention and impact can differ, and that requests of this kind need to be framed with particular care when a student has experienced trauma.

Finally, the University respectfully asks the NSO to consider whether all of the personal and private information relating to the specific nature and circumstances of the underlying trauma presently included in the draft report is necessary to explain its findings and the broader lessons for the sector; given the risk of compromising the former student's privacy or causing further trauma. The University recognises that some contextual information may be required to explain why an application could not reasonably have been made within the usual period and why a sensitive, trauma-informed approach was necessary. At the same time, the essential legal and administrative lessons can be explained without identifying the precise nature or origin of the former student's circumstances. The University therefore respectfully invites the NSO to adopt the least intrusive description reasonably necessary to support its findings and sector guidance. This request is made to protect the former student's privacy; it is not intended to minimise the seriousness of the circumstances, their impact upon the former student or the importance of the NSO's findings.

The University thanks the NSO for bringing these matters to its attention and remains committed to working constructively with the NSO to implement the recommendations and improve the experience of students engaging with its administrative processes.

Yours sincerely,



Professor David Lloyd
Interim Vice Chancellor

ATTACHMENT – Table of Responses to Findings & Recommendations

NSO Findings / Recommendations	University of Notre Dame's Response
Recommendation 1 We recommend that **within 6 months of this report**, UNDA completes an internal audit of all 'out of time' retroactive withdrawal applications received after the date the policy came into effect (30 April 2019), as defined under clause 5.2 of its Retroactive Withdrawal Policy and: a. identifies any unlawful decisions b. rectifies these decisions by informing the relevant parties and processing amendments using the Tertiary Collection of Student Information (TCSI) system c. updates the NSO on the finalisation of these amendments.	**Recommendation Accepted** Upon being alerted to the error in its interpretation of the HESA legislative requirements, UNDA initiated an internal audit to identify any students who may have been adversely affected. As part of this process, UNDA is undertaking a reassessment of affected applications to ensure they are considered in accordance with the correct legislative requirements. UNDA welcomes the recommendation and will provide the NSO with an update on the outcome of this review within the timeframe specified.
Recommendation 2 We recommend that **within 28 days of this report**, UNDA updates its Retroactive Withdrawal Policy to explicitly align with the correct interpretation of the Higher Education Support Act 2003, including absolute clarity on: a. how academic penalty waivers are assessed independently of applications for remission under HESA b. what period of time and factors are considered under clause 5.2 and when decisions will be communicated to applicants c. that decisions made under clause 5.2 are reviewable	**Recommendation Accepted & Completed** Upon being alerted to the error in its interpretation of the HESA legislative requirements, UNDA reviewed and updated its Retroactive Withdrawal Policy to ensure alignment with the applicable legislative framework.
Recommendation 3 We recommend that, **within six months**, UNDA provide the NSO with an implementation plan and progress report, including how it has addressed the findings and recommendations relating to the prevention and response of gender-based violence arising from this complaint and demonstrating the actions it has taken to progress the two commitments below outlined in its 13 February 2026 correspondence. **Commitment 1:** <u>Review of approach to sensitive matters</u> Clearer internal pathways for escalation to specialist support, guidance for decision-makers on how to request clarification in a proportionate and trauma-informed way, and correspondence that explains requirements in plain language, offers choices about how information can be provided (including via a support person where appropriate), and proactively connects students to support options—while maintaining procedural fairness and compliance.	**Recommendation Accepted** UNDA is currently undertaking this review and broader process improvement work. UNDA acknowledges that its approach in this matter did not reflect the standard of support to which it aspires and sincerely regrets the impact this had on the student concerned. UNDA takes its obligations to students very seriously. As a university committed not only to excellence in higher education, but also to the provision of compassionate and student-centred pastoral care, UNDA remains committed to learning from this matter and strengthening its practices to better support students in the future. UNDA welcomes the recommendation and will provide the NSO with an update on the outcome of this review within the timeframe specified.

Commitment 2: <u>Strengthening mental health framework</u> This case has highlighted the importance of trauma-informed practice not only in interpersonal disclosures, but also when sensitive information is provided through administrative processes, such as application forms. Where disclosures arise in this way, it is important that staff responsible for receiving and assessing the information are equipped to respond with care, clarity and appropriate escalation—so that administrative processes do not inadvertently add to distress. Consistent with the University's disclosure pathways and the specialist role of Respect Officers in providing coordinated support, the University is strengthening training and guidance for staff who handle such applications and reviewing relevant policies, procedures and referral pathways to ensure that future responses are more consistently person-centred, trauma-informed and responsive to student needs and concerns.	

NSO acknowledgement

The NSO acknowledges the tremendous courage and resilience shown by Curtis raising this complaint and his constructive engagement with the NSO throughout the investigation. All complaints the NSO receives help to inform our understanding of student experiences and improve practices across the higher education sector.

The NSO thanks Notre Dame University Australia for its submission, reflections, accountability and concerns about the impact this publication may have on Curtis.

The NSO consulted with Curtis regarding the inclusion and representation of his personal information and experiences throughout the investigation and report drafting process. Curtis reviewed this report and consented to all inclusions of his personal information prior to publication.

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