

Foreign Arrangements Notification and Interactions Procedure

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Purpose

The purpose of this Procedure is to establish the principles and to provide for procedures to ensure that Federation University Australia (**University**) complies with the various foreign arrangements and interference laws in Australia, which are set out below under Legislative Context (**Foreign Arrangements and Interference Laws**).

Australia's Foreign Arrangements Scheme was introduced in 2020 to ensure that arrangements between state and territory governments (and their entities) and foreign entities are consistent with Australia's foreign policy and do not adversely impact national foreign relations. As a publicly funded university, Federation University is a government entity under the terms of the scheme and is bound by the requirement to notify the government of certain foreign agreements.

Agreements entered by the University are generally deemed **non-core arrangements** as defined by Australia's Foreign Relations (State and Territory Arrangements) Act 2020 (the Act) and do not require prior approval by the

Minister for Foreign Affairs, however a notification of intention to negotiate an agreement with a foreign entity must be submitted prior to the agreement being executed. The Minister must also be notified within 14 days of entering into the agreement. The Minister may make a declaration prohibiting the University from entering the agreement or declaring that an existing agreement is not in operation if the arrangement is inconsistent with Australia's foreign policy or may adversely affect Australia's foreign relations.

This procedure has been developed to provide information and guidance to staff and to ensure that the University acts in compliance with Australia's Foreign Relations (State and Territory Arrangements) Act 2020 (the Act).

Scope

This procedure applies to all university staff when negotiating, renewing or extending an arrangement with a **foreign entity** or entering into a subsidiary arrangement under an existing agreement on behalf of the university.

Legislative Context

- *Federation University Australia Act 2010* (Vic)

Foreign Arrangements and Interference Laws:

- *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (Cth)
- *Australia's Foreign Relations (State and Territory Arrangements) Rules 2020* (Cth)
- *Foreign Influence Transparency Scheme Act 2018* (Cth)
- *Foreign Influence Transparency Scheme Rules 2018* (Cth)
- *Autonomous Sanctions Act 2011* (Cth)
- *Autonomous Sanctions Regulations 2011* (Cth)
- *Charter of the United Nations Act 1945* (Cth)
- *Customs Act 1901* (Cth)
- *Customs (Prohibited Exports) Regulations 1958* (Cth)
- *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995* (Cth)
- *Defence Trade Controls Act 2012* (Cth)
- Defence Strategic Goods List (DSGL)
- Guidelines to counter foreign interference in the Australian university sector

Definitions

Term	Definition
Arrangement	An arrangement is any written agreement, contract, understanding or undertaking: <ul style="list-style-type: none">• whether or not it is legally binding; and• whether or not it is made in Australia; and• whether it is entered before, on or after the commencement date of the Act.
Autonomous Sanctions	has the same meaning as prescribed under the <i>Autonomous Sanctions Act 2011</i> (Cth)

Communications Activity	A person undertakes communication activity if: a. the person communicates or distributes information or material to the public or a section of the public; or b. the person produces information or material for the purpose of the information or material being communicated or distributed to the public or a section of the public.
Consolidated List	means the list of persons and entities subject to targeted financial sanctions or travel bans under Australian Sanction Laws accessible at https://www.dfat.gov.au/international-relations/security/sanctions/consolidated-list
Controlled Asset	has the meaning prescribed under the <i>Autonomous Sanctions Regulations 2011 (Cth)</i> .
Core foreign arrangement	An arrangement between a State or Territory, the government of a State or Territory, or a department or agency of a State or Territory government and a core foreign entity. (Core agreements are government to government agreements only and will not apply to Federation University agreements unless an Australian State or Commonwealth body is also a party).
Designated Entity	means an entity appearing on the Consolidated List as amended by DFAT from time to time and accessible at https://www.dfat.gov.au/sanctions/consolidated-list.html
Designated Person	means a person appearing on the Consolidated List as amended by the DFAT from time to time and accessible at https://www.dfat.gov.au/sanctions/consolidated-list.html
Disbursement Activity	a person undertakes disbursement activity if: a. the person disburses money or things of value; and b. neither the person nor a recipient of the disbursement is required to disclose it under Division 4, 5 or 5A of the Commonwealth Electoral Act 1918 (Cth).
Export Sanctioned Goods	has the meaning prescribed under the <i>Autonomous Sanctions Regulations 2011 (Cth)</i> .
Foreign arrangement	An arrangement between a State/Territory entity (including a public university) and a foreign entity.
Foreign Country	means any country other than Australia or an external Territory (whether or not an independent sovereign State).
Foreign entity	A foreign entity is any of the following entities: <ul style="list-style-type: none"> • a foreign country • the national government of a foreign country • a department or agency of a foreign country or national government • a province, state, self-governing region, local council, municipality or other political subdivision of a foreign country • an entity that is a department, agency or authority of a foreign government

	<ul style="list-style-type: none"> a university that is located in a foreign country and does not have institutional autonomy an entity that is external to Australia and is prescribed by the rules to be a foreign entity
Foreign Government	<p>means:</p> <ul style="list-style-type: none"> a. the government of a foreign country or of part of a foreign country; or b. an authority of the government of a foreign country; or c. an authority of the government of part of foreign country; or d. a foreign local government body or foreign regional government body.
Foreign Government Related Entity	has the meaning prescribed under the <i>Foreign Influence Transparency Scheme Act 2018</i> (Cth).
Foreign Government Related Individual	<p>means an individual:</p> <ul style="list-style-type: none"> a. who is neither and Australian citizen nor a permanent Australian resident; and b. who is related to a foreign principal that is a foreign government, foreign government related entity or foreign political organisation in either or both of the following ways: <ul style="list-style-type: none"> i. the individual is accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the foreign principal; ii. the foreign principal is in a position to exercise, in any other way, total or substantial control over the individual.
Foreign Political Organisation	<p>includes:</p> <ul style="list-style-type: none"> a. a foreign political party; and b. a foreign organisation that exists primarily to pursue political objectives.
Foreign Principal	<p>means:</p> <ul style="list-style-type: none"> a. a foreign government; b. a foreign government related entity; c. a foreign political organisation; d. a foreign government related individual.
General Political Lobbying	<p>Means lobbying any one or more of the following:</p> <ul style="list-style-type: none"> a. a Commonwealth public official; b. a Department, agency or authority of the Commonwealth c. a registered political party d. a candidate in a federal election e. a person or entity that is registered under the Commonwealth Electoral Act 1918 (Cth) as a political campaigner; other than lobbying that is Parliamentary lobbying.
Import Sanctioned Goods	has the meaning prescribed under the <i>Autonomous Sanctions Regulations 2011</i> (Cth).

Institutional autonomy	A university does not have institutional autonomy if, and only if, a foreign government is in a position to exercise substantial control over the university.
Non-core foreign arrangement	A foreign arrangement that is not a core foreign arrangement; e.g. arrangements between universities for research or provision of educational services and materials.
Parliamentary Lobbying	means lobbying any one or more of the following persons: a. a member of the Parliament; b. a person employed under section 13 or 20 of the Members of Parliament (Staff) Act 1984 (Cth).
Registrable Activity	has the meaning prescribed under the <i>Foreign Influence Transparency Scheme Act 2018</i> (Cth).
Registrable Arrangement	A registrable arrangement is an arrangement between a person and a Foreign Principal for the person to undertake, on behalf of the Foreign Principal, one or more activities that, if undertaken by the person on behalf of the Foreign Principal, would be registrable in relation to the Foreign Principal.
Sanction Law	means all laws and corresponding regulations under the <i>Autonomous Sanctions Act 2011</i> (Cth) and the <i>Charter of the United Nation Act 1945</i> (Cth).
Sanctioned Commercial Activity	has the meaning prescribed under the <i>Autonomous Sanctions Regulations 2011</i> (Cth).
Sanctioned Country	means a country listed by DFAT at https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes .
Sanctioned Service	is as defined within the respective sanctions regimes listed by DFAT at https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes
Sanctioned Supply	has the meaning prescribed under the <i>Autonomous Sanctions Regulations 2011</i> (Cth).
Subsidiary arrangement	An arrangement entered under the auspices of an existing foreign arrangement, e.g. a commercial third party contractor providing services under the auspices of the header agreement.

Foreign Arrangements Notification

When entering into, extending or varying foreign arrangements Federation University Australia has obligations to undertake due diligence to establish the identity of all parties to the agreement and their potential affiliations with foreign governments.

University employees negotiating foreign arrangements must make all reasonable enquiries to assess whether the parties to the arrangement are **Foreign Entities** as defined above and record the findings of their enquiries as evidence of the decision-making process. Arrangements with corporations which act on a purely commercial basis are not captured by the scheme unless forming part of a **subsidiary arrangement**.

Agreements with parties identified as **Foreign Entities** must be notified to the Legal Office, so it can notify the Department of Foreign Affairs DFAT through the [Foreign Arrangements Scheme Online Portal](#). Information provided to DFAT may be made available on the public register.

Pre-agreement activities

Prior to entering into negotiation of any agreement involving a foreign entity, approval must be obtained from the Deputy Vice-Chancellor, Global, Engagement and Quality, Pro Vice-Chancellor, Research or the Chief Operating Officer.

On receipt of preliminary approval the following activities must be completed:

	Activity	Responsibility	Steps
1.	Agreement Negotiations	Member of staff requesting consideration of arrangement.	<ol style="list-style-type: none"> 1. Undertake due diligence checks of all parties to the arrangements. For guidance on determining the institutional autonomy of a foreign university refer DFAT guidance on institutional autonomy 2. Complete a Foreign Arrangements Checklist (Appendix 1) to determine if the agreement is notifiable. If the agreement is notifiable or the autonomy of the organisations cannot be confirmed, seek approval from the Deputy Vice-Chancellor, Global, Engagement and Quality, Deputy Pro Vice-Chancellor, Research and Innovation or the Chief Operating Officer to proceed with negotiations. 3. If approved to proceed submit Foreign Arrangements Checklist along with the draft agreement to the Legal Office for review. 4. On return of the draft agreement, complete the Foreign Arrangements Portal Submission Form (Appendix 2) and provide to the Legal Office for submission. 5. On execution of the agreement, update the Foreign Arrangements Portal Submission Form and provide

			the updated form along with a copy of the signed agreement to the Legal Office for portal updating within seven days.
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Foreign Arrangements Scheme Online Portal notifications

	Activity	Responsibility	Steps
1.	DFAT notification – Potential arrangement	Legal Office	<ol style="list-style-type: none"> 1. Register arrangement to Foreign Arrangements Scheme Online Portal and submit notification of prospective arrangement. Upload a copy of the draft agreement to the portal for ministerial review. 2. Note DFAT notification number on Foreign Arrangements Submission Form. 3. Return draft agreement and corresponding documentation to responsible officer.
2.	DFAT Notification – Signed agreement	Legal Office	<ol style="list-style-type: none"> 1. Within 14 days of entering into an arrangement identified as notifiable, a new notification must be submitted against the arrangement via the Foreign Arrangements Scheme Online Portal confirming the arrangement is now an existing arrangement, effective commencement and expiry dates of the arrangement and the signatory to the arrangement. A copy of the final agreement/ contract must be uploaded to the portal to confirm any alterations to the arrangement made during negotiations
3.	Withdrawing Arrangements	Legal Office	<ol style="list-style-type: none"> 1. Should a prospective arrangement not proceed, where possible the notification should be withdrawn. Withdrawal of a notification is possible whilst the assessment status remains 'Notification received'.

			Notifications should only be withdrawn on receipt of written instruction from the responsible officer and where there is no potential for the arrangement to proceed at a later date.
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Monitoring and Reporting

	Activity	Responsibility	Steps
1.	Ministerial declarations	All staff	<p>1. Any staff member authorised to make notification of potential or existing arrangement could receive notification of a ministerial direction to cease negotiation of an arrangement or that an existing agreement is not in operation.</p> <p>Any such notification must be immediately forwarded to:</p> <ul style="list-style-type: none"> the signatory to the contract/ arrangement the Director, Governance and Strategy Legal Office
2.	International Education Committee Reporting	Director, Governance and Strategy	<p>1. Immediately notify the Vice-Chancellor of any Ministerial declaration. Prepare a bi-monthly report to the International Education Committee confirming all notifications made to DFAT and ministerial directions received</p>
3.	Audit and Risk Management Committee Reporting	Director, Governance and Strategy	<p>1. Prepare a six monthly report to the committee of all notifications made to DFAT and the status of notifications.</p>

Foreign Interactions

This Procedure additionally outlines the University's approach and commitment to maintain compliance with all the Foreign Interference Laws.

The University is committed to full compliance with all Foreign Interference Laws that apply to its research, academic and business activities.

Foreign Influence Transparency Scheme

The Foreign Influence Transparency Scheme (**FITS**) was established under the *Foreign Influence Transparency Scheme Act 2018* (Cth) and requires the registration of certain activities undertaken by University staff or students. Staff and students will be required to register an activity if:

- they undertake Registrable Activities or enter into a Registrable Arrangement, and
- the activity is, or will be undertaken in Australia on behalf of a Foreign Principal, and
- the activity is undertaken for the purpose of political or governmental influence, and
- no exemptions apply.

A Foreign Principal includes a Foreign Government, a Foreign Political Organisation, a Foreign Government Related Entity, or a Foreign Government Related Individual.

Registrable Activities include Parliamentary Lobbying, General Political Lobbying, Communications Activities, Disbursement Activity (payment of money or things of value).

Sanctions

The University must comply with all relevant Sanctions, which include the United Nations Security Council (**UNSC**) sanctions and Australian Autonomous Sanctions. Sanctions are measures not involving the use of armed force that are imposed in situations of international concern and are designed to bring a situation of international concern to an end by influencing those responsible in a bid to limit the adverse impacts of a situation or to penalise those responsible.

Sanctions operate to place restrictions on trade in goods and services, place restrictions on engaging in commercial activities, place targeted financial sanctions on designated persons and entities and place travel bans on certain persons.

Autonomous Sanctions

The University will take all reasonable measures to ensure that Australian Autonomous Sanctions and regulations are complied with. This includes ensuring that the University does not undertake activities under the Sanctions regimes listings as set out by DFAT. This includes ensuring that the follow activities do not occur:

- making a Sanctioned Supply of Export Sanctioned Goods;
- making a Sanctioned Import of Import Sanctioned Goods;
- providing a Sanctioned Service;
- engaging in a Sanctioned Commercial Activity;
- dealing with a Designated Person or a Designated Entity;
- using or dealing with a Controlled Asset; or
- allowing the entry into, or transit through, Australia of a Designated Person.

UNSC Sanctions

The University will comply with any sanctions imposed by the United Nations Security Council as implemented through any regulations. This includes all UNSC sanctions listed on the DFAT [website](#).

Export Controls

Export control laws regulate the export of defence and strategic goods, technology and software. This includes the transmission and publication of certain controlled information.

While research or teaching activities may not be specifically related to weapons or defence, they may involve defence and strategic goods, technology or software. Publication of, or export of these items from Australia to a place outside Australia requires a permit.

Australia's export controls legislation affects the tangible and intangible export of defence and related goods and dual use good and technologies. Where there is:

- A tangible or intangible export from Australia to a place outside Australia of items or technology on the Defence and Strategic Goods List (DSGL)
- Publication of military use technology on the DSGL
- Brokering overseas supply of military use items or technology on the DSGL.

Anyone involved in the conduct of research associated with Federation University must be aware of and comply with Australian export controls legislation.

The Defence and Strategic Goods List (DSGL) is a legislative instrument that is amended from time to time to reflect changes in the various multilateral non-proliferation and export control regimes of which Australia is a member. The DSGL can be accessed online [here](#).

Supporting Documents

- [Foreign Arrangements Scheme Online Portal User Guide for State and Territory Entities](#)
- [Australia's Foreign Relations \(State and Territory Arrangements\) Act 2020 – Guidance on Institutional Autonomy](#)
- [Australia's Foreign Relations \(State and Territory Arrangements\) Act 2020 – Guidance Government Corporations](#)
- [Australia's Foreign Relations \(State and Territory Arrangements\) Act 2020 – Fact Sheet 4 – Australian Universities](#)

Forms.

- [Foreign Arrangements Notification Checklist](#) (DOCX 360.5kb)
- [Foreign Arrangements Portal Submission Form](#) (DOCX 194.5kb)

Responsibility

- The Chief Operating Officer (as Approval Authority) is responsible for monitoring the implementation and scheduled review of this document.
- The Head of Legal (as Document Owner) is responsible for maintaining the content of this document as delegated by the Chief Operating Officer.

Promulgation

The [Foreign Arrangements Notification and Interactions Procedure](#) will be communicated throughout the University via:

1. A FedNews announcement and on the 'Recently Approved Documents' page on the University's Policy Central website.
2. Distribution of e-mails to VCST Members, Deans, Directors and University staff with direct responsibility for actions.

Implementation

The [Foreign Arrangements Notification and Interactions Procedure](#) will be implemented throughout the University via:

1. A FedNews announcement and on the 'Recently Approved Documents' page on the University's Policy Central website.
2. Targeted training as required.

Records Management

Document Title	Location	Responsible Officer	Minimum Retention Period
Foreign Arrangements Notification Checklist	Legal Contract File	Legal Department	Term of Contract + 5 years
Foreign Arrangements Portal Submission Form	Legal Contract File	Legal Department	Term of Contract + 5 years