



Australian Government

Australian Government response to the
Parliamentary Joint Committee on Intelligence and Security report:
National security risks affecting the Australian higher education and
research sector

FEBRUARY 2023

Introduction

On 28 October 2020, the then Minister for Home Affairs, referred to the Parliamentary Joint Committee on Intelligence and Security (the PJCIS) a general inquiry to report on national security risks affecting the higher education and research sector (the sector).

On 25 March 2022, the Committee delivered its final report, 'National security risks affecting the Australian higher education and research sector' (the Report) which made 27 recommendations.

The Report considered the broad national security risks present in the sector, with a particular focus on the prevalence, characteristics and significance of foreign interference, undisclosed foreign interference, data theft and espionage and associated risks to Australia's national security in the sector.

The Government welcomes and broadly supports the majority of the recommendations. It also welcomes the acknowledgement throughout the report of the substantial work undertaken or underway by the sector and the Commonwealth agencies through the University Foreign Interference Taskforce (UFIT) and other key lines of effort in order to raise awareness and increase resilience to foreign interference.

The Government will continue to support and collaborate with universities in policy development, capability building, guidelines implementation, information sharing and an overall positive partnership to deepen universities' resilience against foreign interference

Recommendations

Recommendation 1: The Committee recommends the Australian higher education and research sector, via the University Foreign Interference Taskforce, undertake a campaign of active transparency in relation to the national security risks. The Committee recommends that the University Foreign Interference Taskforce have oversight of this campaign and report to the Australian Government on progress.

Response: Supported

The University Foreign Interference Taskforce will continue its efforts to build the sector's understanding of the risk and context of foreign interference and appropriate responses. The University Foreign Interference Taskforce will continue to update Ministers on the sector's progress in implementing the UFIT Guidelines.

Recommendation 2: The Committee welcomes the revised UFIT Guidelines and further recommends adherence to those guidelines be reported annually to the PJCIS in writing, accompanied by a classified briefing. This briefing should include an explanation of the capabilities developed to monitor and evaluate compliance with the guidelines.

The Government should further consider the UFIT terms of reference and update relevant guidance material to ensure the body remains fit for purpose.

Response: Supported in Principle

The Government is working with the sector to define reporting arrangements on the implementation of the revised UFIT Guidelines and will share with the PJCIS the findings of any report. Agencies will be available to provide a classified briefing to the PJCIS. The University Foreign Interference Taskforce will keep its terms of reference under review and update, on a regular basis, guidance material as appropriate.

Recommendation 3: The Committee recommends University Foreign Interference Taskforce assist universities to introduce, maintain and develop relevant training on national security issues for staff and students. Universities should employ an accountable authority who is responsible for managing foreign interference risks at their institution. This position should be based upon the framework set out in part 1.2 of the updated UFIT Guidelines.

Response: Supported

The University Foreign Interference Taskforce has established a Training Working Group to complement the sector's existing work in order to ensure the availability of appropriate training materials for staff and students to counter foreign interference.

Officials from Home Affairs and ASIO will continue a program of outreach activities with the sector to support implementation of the UFIT Guidelines. The UFIT Guidelines

encourage universities to have accountable authorities responsible for managing foreign interference risk.

Recommendation 4: The Committee recommends the University Foreign Interference Taskforce establish a working group to address the issue of on-campus intimidation, reporting on fellow students or staff to foreign embassies, and intimidation on campuses related to the national security risks and make recommendations to the Australian Government and the sector.

This group, as a matter of urgency, should provide clear guidance to universities on implementing penalties for foreign interference activities on campus, including reporting on fellow students to foreign governments. These should be clearly defined in university codes of conduct and communicated to students.

Response: Supported

The UFIT Guidelines encourage universities to have communication plans and education programs that raise awareness and support mitigation of their foreign interference risks, including instances of intimidation and harassment (UFIT Guideline 2.1). The University Foreign Interference Taskforce Training Working Group will consider behavioural issues on campus as part of its remit.

Recommendation 5: The Committee recommends the Department of Education, Skills and Training should, in concert with the University Foreign Interference Taskforce, annually publish a report that documents incidents of harassment, intimidation and censorship that occur as a result of foreign interference activities on Australian university campuses. This report should include the steps and responses, if any, taken by the university.

Response: Noted

If clandestine, it can be difficult to establish foreign interference as the motivating factor for harassment, intimidation and censorship. The Government is working with the sector to define reporting arrangements on the implementation of the revised UFIT Guidelines.

Recommendation 6: The Committee recommends the Department of Education, Skills and Training and the Department of Home Affairs work to develop a secure mechanism that allows individual students to anonymously report incidents of intimidation, retaliation, harassment, or censorship on campus where a student believes those behaviours are associated with foreign interference.

Response: Supported

Individual students are able to anonymously report instances of foreign interference on campus through the National Security Hotline. Through ongoing outreach efforts, Home Affairs and ASIO will continue to promote the National Security Hotline and NITRO (Notifiable Incidents, Threats and Reportable Observations) as reporting mechanisms for suspected instances of foreign interference.

Recommendation 7: The Committee recommends that Universities who elect to host a Confucius Institute should disclose and make public details of those agreements and funding arrangements, and that at a minimum, Universities have a final say about the appointment of staff, curriculum content and that robust academic freedom and free speech clauses be included in any agreement.

The Committee supports the Foreign Minister using her existing veto powers under the Foreign Relations Act to make determinations in the national interest, including in relation to Confucius Institutes.

Response: Noted

In accordance with the UFIT Guidelines, universities will continue to apply a comprehensive approach to their due diligence in assessing foreign interference risks and reflect that in the terms of any agreement to host a Confucius Institute.

Arrangements between Australian public universities and Chinese government entities and/or universities relating to Confucius Institutes are required to be notified to the Minister for Foreign Affairs under the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (the Act). Fifty-six such arrangements have been notified and confirmed to be subject to the Act to date. Under the Act, details of these arrangements are published on the Public Register (www.foreignarrangements.gov.au) unless subject to requests for exclusion from publication.

The Department of Foreign Affairs and Trade (DFAT) reviews Confucius Institute arrangements notified under the Act in consultation with Government agencies and provides advice to the Minister for Foreign Affairs. The Minister may exercise powers with respect to individual foreign arrangements within scope of the Act where the arrangement is, or is likely to be, inconsistent with Australia's foreign policy or adverse to Australia's foreign relations. Separate from their powers under the Act, the Minister may also direct DFAT to pursue mitigations to manage foreign policy risks, where identified.

DFAT, in consultation with other agencies, has assessed all Confucius Institute arrangements notified and within scope of the Act. The Government's resilience measures, including UFIT and the Foreign Arrangements Scheme (as established by the Act), are an effective mechanism for engaging with the university sector to ensure universities are informed about and are managing risk associated with foreign engagement, including with respect to Confucius Institutes. DFAT will keep these arrangements under review. DFAT is actively engaging with universities directly and through UFIT to convey the Government's expectations, and advice on negotiating arrangements that protect Australia's interests and mitigate risks.

Recommendation 8: The Committee recommends the Foreign Minister exercise her power under the Foreign Relations Act to make a determination in the national interest relating to the agreement between Monash University and COMAC.

Response: Noted

The Department of Foreign Affairs and Trade and the Department of Home Affairs are engaging closely with Monash University about its relationship with COMAC. Monash University has advised that all currently active research projects between Monash and COMAC will conclude in the first half of 2023, and no further activity is planned. Government agencies will maintain regular contact with Monash University and keep this cooperation under review.

Recommendation 9: The Committee recommends the higher education sector take note of the “Blueprint for Critical Technologies” released by the Critical Technologies Policy Coordination Office within the Department of Prime Minister and Cabinet on 17 November 2021 as a reference for areas of research sensitive to the national interest and exercise greater caution with international research partnerships, PhD students and cyber-security. However, the Committee urges the sector not to consider this list exhaustive and to also use their own judgement about technologies which might subsequently emerge. In these sensitive research cases, universities should be required to provide additional security assurances regarding research personnel to Commonwealth funding agencies.

Response: Supported

The University Foreign Interference Taskforce has established a Critical Technology Working Group to identify critical technologies that require heightened due diligence when considering international research partnerships, PhD students and cyber-security. Commonwealth funding agencies such as the Australian Research Council and National Health and Medical Research Council reference the UFIT Guidelines in the consideration of grant applications.

Recommendation 10: The Committee recommends ASIO, in their annual report to parliament, provide information on threats to the Australian higher education and research sector as a routine part of their broader threat assessment.

Response: Not supported

ASIO does not consider it appropriate to highlight a single sector in its Annual Report when multiple sectors are being targeted by our adversaries. It could be misleading and, in some circumstances, give Australia’s adversaries actionable information about ASIO investigations.

It is also important to note that ASIO uses *multiple* mechanisms for providing threat information. Apart from the Annual Report, the Director-General delivers an Annual Threat Assessment and appears before Senate Committees. ASIO regularly briefs the higher education sector on the security environment, and also prepares and disseminates outreach reports on threats to specific sectors, including higher education. It would be preferable for ASIO to have maximum flexibility in how it delivers information about threats to higher education, tailored to the specific circumstances at the time.

Recommendation 11: The Committee recommends the University Foreign Interference Taskforce establish clear policies on what constitutes acceptable dual appointments of foreign diplomats at Australian tertiary institutions. Universities should also make their own judgements about whether appointments are consistent with the values they seek to uphold.

Additionally, the Committee recommends the Attorney-General's Department and Department of Foreign Affairs and Trade consider whether appointments of foreign diplomats to Australian tertiary institutions are adequately addressed via existing legislative frameworks.

Response: Noted

Risks associated with the appointment of foreign diplomats to Australian tertiary institutions are addressed via existing legislative and policy frameworks.

Under the *Vienna Convention on Diplomatic Relations 1961*, foreign diplomats are prevented from undertaking professional or commercial activity for personal gain; however this does not prevent a foreign diplomat from accepting an unpaid honorary position at a university.

In accordance with the UFIT Guidelines, universities will continue to apply a comprehensive approach to their due diligence in assessing foreign interference risks.

Recommendation 12: The Committee recommends the University Foreign Interference Taskforce provide guidance to support universities allowing for anonymous assignment submission.

Response: Supported

The University Foreign Interference Taskforce Training Working Group will consider anonymous assignment submission as part of its remit.

Recommendation 13: The Committee recommends the Attorney-General's Department should clearly communicate Foreign Influence Transparency Scheme requirements to foreign student associations operating at Australian universities and investigate possible cases of non-compliance.

Response: Supported

The Attorney-General's Department (AGD) will engage with the university sector, through the University Foreign Interference Taskforce, about how to most effectively communicate the requirements of the scheme and investigation processes to student associations.

Recommendation 14: The Committee recommends the Australian Government provide deeper and timelier security advice to assist the sector in their risk identification and management processes.

Response: Supported

ASIO, Home Affairs and the Australian Cyber Security Centre work closely with the higher education and research sector, and will continue to provide regular briefings on the threat of espionage and foreign interference.

Recommendation 15: The Committee recommends the Department of Defence deny Defence Industry Security Program accreditation to institutions with exposure to talent recruitment programs that is assessed to be a security issue.

Response: Supported in Principle

The Government will adjust the Defence Industry Security Program (DISP) membership application and assurance processes to require a declaration from institutions in regards to their exposure to talent recruitment programs. The declaration will inform risk assessments and ratings.

Recommendation 16: The Committee recommends more timely and relevant advice be provided by the Department of Defence and the Department of Foreign Affairs and Trade in support of the defence export control and autonomous sanctions schemes.

Response: Supported in Principle

Australian export control legislation requires each export application to be assessed against twelve legislative criteria broadly addressing foreign policy, human rights, national security, regional security and international obligations. The Department of Defence continues to monitor processing times and implement process improvements to reduce those processing times as far as possible. Certain export applications require specialist advice from other government departments and agencies, which can extend processing times.

The Department of Defence provides outreach to the Australian university and research sector to support awareness of, and compliance with, Australian export controls legislation.

DFAT provides detailed information about Australian sanctions laws at www.dfat.gov.au/sanctions. This provides access to the Consolidated List of all persons and entities listed for targeted financial sanctions and travel bans under Australian sanctions laws and access to Pax, the online sanctions portal, which can be used to contact the Australian Sanctions Office (ASO) in DFAT with specific queries. It is also possible to use the website to subscribe to updates from the ASO, which are provided by e-mail whenever there is a change to Australian sanctions laws, including changes to the Consolidated List.

DFAT also conducts regular seminars on Australian sanctions laws for the community, including universities. Universities can use Pax to request a seminar.

Recommendation 17: The Committee recommends employees of government departments and agencies be prohibited from participation in talent-recruitment programs.

Response: Supported in Principle

Under the APS Code of Conduct, legislated under the *Public Service Act 1999*, an APS employee must take reasonable steps to avoid any conflict of interest in connection with their APS employment and disclose details of any material personal interest in connection with their APS employment. Under the Protective Security Policy Framework, security clearance holders are required to report, amongst other things, suspicious, persistent, unusual or ongoing contact with foreign nationals, involvement or association with any group, society or organisation, visits to foreign countries and financial circumstances. The national security risks that may arise from participation in talent-recruitment programs can be assessed through these processes.

Recommendation 18: The Committee recommends the Attorney-General's Department and Department of Foreign Affairs and Trade assess whether existing legislative tools are sufficient for addressing membership in talent programs that are against the national interest.

Response: Supported in Principle

The Guidelines to Counter Foreign Interference in the Australian University Sector provides guidance to universities on the conduct of due diligence on partners and personnel to inform decision-makers of foreign interference risks.

The *Criminal Code* includes offences for espionage and foreign interference. Agencies keep this legislation under active review.

The Foreign Arrangements Scheme may consider some arrangements involving talent programs where arrangements involve an Australian university and a foreign government.

Recommendation 19: The Committee recommends the Department of Education, Skills and Employment commission a risk-based audit which samples Australian Research Council grants over the past decade to determine exposure associated with participation in talent recruitment programs noting the thousand talents program is one amongst many. The audit should investigate whether grant rules have been adhered to regarding intellectual property.

The Committee also recommends the Government investigate the adequacy of existing penalties for research institutions who are failing to detect or respond to any breaches to ARC grant rules identified in the audit.

Response: Supported in Principle

The Department of Education will engage with the Australian Research Council (ARC) to review active/current ARC grants in the context of consideration of foreign interference risks since the launch of the original UFIT Guidelines.

The Government considers existing penalties appropriate for breaches of ARC grant rules. ARC compliance arrangements include penalties such as the termination of grants, full recovery of funds, and banning of applicants from applying in future grant rounds.

Recommendation 20: The Committee recommends the University Foreign Interference Taskforce work with universities to develop best practice audit requirements regarding senior research staff members' foreign interests, including participation in talent programs. These foreign interests should then be provided to UFIT and university-specific but individually anonymised information on foreign interests made publicly available via UFIT's website. This should include transparency on measures taken to address incidences of security concern and conflicts.

Response: Supported in Principle

The UFIT Guidelines encourage universities to have approval, audit and continuous evaluation of due diligence processes (Guideline 3.4). The Government is working with the sector to define reporting arrangements on the implementation of the revised UFIT Guidelines. Reporting on implementation of the revised UFIT Guidelines will provide an opportunity for universities to identify in an aggregated form their implementation of due diligence processes.

Recommendation 21: The Committee recommends the Departments of Education, Skills and Employment and Foreign Affairs and Trade assist the sector in diversifying international student populations.

Response: Supported

Steps have been taken to assist the sector to diversify the international student cohort to improve sector resilience and enhance student experience. The Australian Strategy for International Education 2021-2030 led by the Department of Education identifies

diversification of Australia's international education sector as one of four priority areas for the next decade. The Department of Education will work with relevant stakeholders, including Austrade and the Department of Foreign Affairs and Trade, in implementation of the strategy.

Recommendation 22: The Committee recommends the Government direct the Tertiary Education Quality and Standards Agency to initiate a regular audit of national security issues and responses in the sector by establishing a National Research Integrity Office within the Agency. The findings of this audit should be publicly reported.

Response: Noted

Government agencies will continue to update Ministers on the sector's progress in implementation of the UFIT Guidelines.

TEQSA's establishing framework does not extend to the required legislative remit, capacity or expertise to deliver on addressing this recommendation. However, the Government acknowledges that work in considering national security issues and sector responses is being pursued under existing consultation and reporting approaches.

The Government has some concern with publicly reporting this information due to the possibility of unintended and undue reputational impacts.

Recommendation 23: The Committee recommends representation from the Department of Foreign Affairs and Trade be included in the University Foreign Interference Taskforce.

Response: Supported

The University Foreign Interference Taskforce has extended its membership to include the Department of Foreign Affairs and Trade.

Recommendation 24: The Committee recommends University Foreign Interference Taskforce assist universities to introduce, maintain and develop relevant training on national security issues for staff and students.

Response: Supported

See response to PJCIS recommendation 3.

Recommendation 25: The Committee recommends the University Foreign Interference Taskforce develop a national security legislation implementation working group to assist universities in actioning national security legislation and related policies. This working group should develop understanding within the sector as to the relationship between various pieces of national security legislation.

Response: Supported in Principle

Relevant Government agencies will consult with the University Foreign Interference Taskforce to ensure that guidance material on the application of national security legislation and policies is made available to the sector.

Recommendation 26: The Committee recommends the Australian Research Council clearly communicate to the sector via the University Foreign Interference Taskforce the serious consequences of grant fraud to increase awareness of disclosure requirements. All Commonwealth funding organisations should consider the adequacy of existing compliance and accountability policies with regard to the provision of grant funding.

In addition the Committee recommends the Australian Research Council toughen penalties against grant fraud and inadequate or incomplete disclosure and prioritise investigation and enforcement of them.

Tenders issued by all government agencies providing grants to research institutions should include a standard clause requiring compliance with existing countering foreign interference policies.

Response: Supported in Principle

The ARC will continue to work with the Department of Education, the University Foreign Interference Taskforce and other stakeholders to continue to raise awareness of disclosure requirements and the serious consequences of grant fraud.

Recommendation 27: The Committee recommends a review of the ARC's performance in assessing foreign interference and national security risks in the context of grant decisions. A copy of the review should be made available to the PJCIS.

Response: Supported

The Government has commenced a review of the ARC's performance in assessing foreign interference and national security risks in the context of grant decisions, with a report of review findings to the Minister for Education, with a copy made available to the PJCIS.