

SUBMISSION



PJCIS Review of the Foreign Influence Transparency Scheme Act 2018

29 November 2021

The Australian Technology Network of Universities (ATN), in collaboration with The University of Newcastle, welcomes the opportunity to contribute to the [Parliamentary Joint Committee on Intelligence and Security \(PJCIS\) review into the Foreign Influence Transparency Scheme Act 2018](#).

ATN is the peak body representing Australia's five most innovative and enterprising universities: Curtin University, Deakin University, RMIT University, University of South Australia (UniSA), and University of Technology Sydney (UTS). The University of Newcastle is an important research-intensive anchor institution in the regional gateways of the Hunter and Central Coast. Together, we are home to over 300,000 students and 23,000 full and part-time staff.

Over the last couple of decades, Australia's universities have adapted to and met the rising challenges faced by Australia in an interconnected and interdependent world. ATN recognises that a safe, secure and open Australia is important for our collective prosperity. It is important to acknowledge that, to date, the interests of both the Government and universities have best been met where both parties have worked together in collaboration.

The integrity of our open and democratic institutions is vitally important in the face of current and emerging sophisticated threats to Australia. Universities have long understood and accepted it is the responsibility of the Government to set and enforce the standard in these matters, and we, as partners in these endeavours, have demonstrated that we are willing and able to take on proportionate responsibility and protective measures.

ATN looks forward to continuing to work closely and in consultation with Government to implement and monitor policy settings to ensure they are effective, are built on mutual understanding and obligations, drive a culture of awareness across our sector, and strengthen, rather than diminish, Australia's open and globally engaged society.

Recommendations

1. The Government should maintain the proportionate, risk-based and targeted approach it has successfully adopted through the University Foreign Interference Taskforce (UFIT), and other schemes, to address issues of national security, foreign interference, and foreign influence concerning universities.
2. The Government should consider all the existing and inter-connected legislative and regulatory frameworks that apply to universities when seeking to address these issues.

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Key messages

- ATN recognises that safe, secure and open public institutions are important for our collective national prosperity, and that the protection of these institutions is a solemn responsibility and preeminent priority for the Government.
- In partnership with the Government, universities have adapted to the dynamic challenges and opportunities of global engagement and the emerging and sophisticated risks of foreign interference and influence.
- Our commitment to openness is expressed through our global outlook and fostering of open intellectual inquiry and expression. This is in keeping with the Australian tradition of liberal democracy and is a fundamental tenet of our mission, values and practice.
- To achieve the best outcomes in safeguarding our national interest and security, universities have been willing partners with Government. This has been most effective where the sector has participated, in partnership, in the co-design of risk-based and proportionate measures that align with measures implemented by our allies and partners globally.
- Appropriate protections need to recognise the differences in risk profiles both between and within institutions, and that risk environments and exposure change over time. Focusing on compliance over adaptability does not acknowledge that threat and risk mitigation strategies are likely to change regularly in response to technological, political, social and legal developments, or that institutional strategies will differ from each other based on individual assessment of threat and risk, and on existing management controls and capabilities.
- Global engagement by universities, including research, teaching and cultural exchange, is fundamental to improving Australian society and the economy. It is therefore essential that an appropriate balance is struck so that we appropriately respond to security concerns and beneficial collaborations are encouraged.

Recommendation 1

The Government should maintain the proportionate, risk-based and targeted approach it has successfully adopted through the University Foreign Interference Taskforce (UFIT), and other schemes, to address issues of national security, foreign interference, and foreign influence concerning universities.

The proportionate, risk-based and targeted approach has been successfully adopted in recent reforms including the revised UFIT Guidelines, the Critical Infrastructure reforms, and the Foreign Arrangements Scheme. Any reforms to the Foreign Influence Transparency Scheme (FITS) should adopt a similar, proven approach.

ATN's recommendations to the PJCIS inquiry into national security risks affecting the higher education and research sectors are relevant to this review and are worth considering:

- Best practice is achieved where risk-based, targeted and proportionate protection is implemented and to date the best way to achieve this has been through consultation and co-design between the Government and the sector.
- A holistic approach is needed across all national security governance and regulation to ensure that the protections are comprehensive, coordinated, and proportionate.
- A risk-based, targeted and proportionate framework demonstrates a clear and shared understanding of where the boundaries are between the responsibilities of various federal and state governments, regulators and other entities.
- Where there are positive mutual obligations between Government and universities that enable the protection of national security, these should be supported, including through investment in shared infrastructure and personnel.
- To provide a timely and effective responses to emerging threats, two-way data and information sharing between the Government and trusted partners should be considered.
- The Government should use UFIT as the focal point for tackling foreign interference and related issues to build on the genuine partnership between Government and universities.

ATN notes the recommendation in the submission to this review by the Attorney-General's Department for better targeted exemptions from FITS. Given the example of registered charities in particular is used, universities would be keen to understand how any proposed changes would impact on them and advise that further consultation would be necessary.

Recommendation 2

The Government should consider all the existing and inter-connected legislative and regulatory frameworks that apply to universities when seeking to address these issues.

Through its extensive work in other inquiries and reviews, the PJCIS has had opportunity to consider the whole range of legislation, regulations and frameworks that the Government and universities have implemented together, including:

- Australia's sanctions regimes
- Critical Infrastructure reforms
- Defence Industry Security Program
- Defence Trade Controls
- Foreign Arrangements Scheme
- TEQSA's Higher Education Integrity Unit
- University Foreign Interference Taskforce.

A holistic approach is needed across all national security governance and regulation to ensure that the protections are comprehensive, coordinated, and proportionate.

Any reforms to FITS applying to universities should be coordinated through UFIT to build on the genuine partnership between Government and universities. This would allow the Government and universities to consider the application, effectiveness and impact of the revised UFIT Guidelines.

In particular, the revised UFIT Guidelines already recommend that universities seek declaration of interest disclosures from staff which go beyond the current requirements of FITS (see Appendix).

Further enquiries should be addressed to:

Executive Director

Australian Technology Network of Universities

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Appendix

UFIT Guidelines to Counter Foreign Interference in the Australian University Sector

3.1 Universities require declaration of interest disclosures from staff who are at risk of foreign interference, including identification of foreign affiliations, relationships and financial interests.

- Universities determine which staff are asked these questions in accordance with a university's assessment of its risk.
- Declarations of interest are collected in accordance with university policies, for example annually, with additional disclosures declared when circumstances change.

Declaration of interest questions

1. Are you receiving any financial support (cash or in-kind) for education or research related activities from a country other than Australia?
2. Do you hold a position (paid or unpaid) or honorific titles in any foreign university, academic organisation or company, or are you under any other obligations to a foreign university, academic organisation or company (e.g. membership of a talent recruitment program)?
3. Are you associated or affiliated with a foreign government or foreign military, policing or intelligence organisation?