

Senate Standing Committees on Foreign Affairs, Defence and Trade

Inquiry into the Australia's Foreign Relations (State and Territory Arrangements) Bill 2020 and Australia's Foreign Relations (State and Territory Arrangements) (Consequential Amendments) Bill 2020

QUESTION ON NOTICE

Date of hearing: 13 October 2020

Australian Research Council (ARC) Question No. IQ20-000248

Senator Kimberley Kitching on 13 October 2020, Proof Hansard page 44

Investigation on ARC projects

Question

Senator KITCHING: Your process is really to ask the universities to investigate the matters—for example, any current financial support from an overseas institution. You're currently asking the universities to investigate that?

Ms Dent: Yes, we are. We see the primary responsibility for undertaking due diligence for applications as vesting with the universities as they are the applicants. They are the ones applying for the grants.

Senator KITCHING: So you haven't actually been doing any investigation, really?

Ms Dent: On applications, we would like universities to do that before they apply so they have done their due diligence. When, as Professor Thomas said, issues arise in the public domain and we see information, we will go back and follow up with institutions.

Senator KITCHING: So you follow up. What happens when you follow up?

Dr McKenzie: There is a process through the code of conduct and the national code in terms of research integrity. We ask the universities to do a preliminary investigation of it and to do a report, and then it is reviewed by a board.

Senator KITCHING: How many of those have been reviewed and had funding removed?

Prof. Thomas: Without reference to specific cases, certainly we get a range of allegations about researchers on all sorts of things, and we have pulled funding in the past. We have put conditions—

Senator KITCHING: On how many occasions—

Dr McKenzie: We can give you that information, but I think we'd need to take it on notice to make sure it's correct.

Senator KITCHING: I'm happy for you to take that on notice. I'd like to know the calendar year so far and I'd like to know, let's say, financial years 2018-19 and 2019-20, those financial years where there's been an investigation and subsequently funding has been pulled or where conditions have been attached. And at what institutions has that occurred?

Answer

ARC's *Research Integrity Policy* outlines requirements for institutions, and individuals engaged in ARC business, to report to the ARC research integrity matters, and the action the ARC may take in response to reported breaches of the *Australian Code for the Responsible Conduct of Research* (the Code).

The ARC does not investigate concerns or complaints about potential breaches of the Code. In accordance with the Code, institutions are responsible for investigating potential breaches.

Actions the ARC may take in response to breaches of the Code include: ceasing and/or recovering any or all ARC funding relating to a Funding/Grant Agreement; placing conditions on the consideration of any future grant applications; ceasing the progression of ARC funding

proposals; placing conditions on grants that address or mitigate any identified risks; removing or preventing individuals from being engaged in ARC business.

In 2018-19 the ARC finalised 28 matters relating to actual or potential breaches of the Code. The matters included:

- ten matters where institutions reported breaches of the Code and the ARC took action in response
- one matter where an institution reported a breach of the Code and the ARC determined that no ARC action was required as the breach was minor and the action taken by the institution was considered sufficient to address the matter
- eight matters that were dismissed following institutional preliminary assessments or investigations
- nine matters where preliminary assessments by the relevant institutions were not required. The matters were not within the scope of the policy, or insufficient information was available to provide grounds for preliminary assessments to be undertaken

In 2019-20 the ARC finalised 40 matters relating to actual or potential breaches of the Code. The matters included:

- 17 matters where institutions reported breaches of the Code and the ARC took action in response
- one matter where an institution reported a breach of the Code and the ARC determined that no ARC action was required as the breach was minor and the action taken by the institution was considered sufficient to address the matter
- 10 matters that were dismissed following institutional preliminary assessments or investigations
- 12 matters where preliminary assessments by the relevant institutions were not required as the matters were not within the scope of the policy, or insufficient information was available to provide grounds for proceeding to preliminary assessments.

In 2020-21 (as of 16 October 2020) the ARC has taken action in relation to six matters where institutions reported breaches of the Code.

The ARC is unable to comment on individual cases.

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Professor Heng Tao Shen, Koala AI – outcomes of case

Question

Senator KITCHING: Can I go to one specific example? The reason I ask really is that Professor Heng Tao Shen is the person who set up Koala AI, which is the entity that was providing software that surveilled the Uighurs in the slave labour camps in Xinjiang. That professor received an ARC full-time future fellowship to work on AI, so I'm just wondering what's happened in that particular case. I'm happy for that to be taken on notice.

Prof. Thomas: We will provide you with an answer, but certainly our remit is about ARC grants, and those are the dimensions within which we will ask information, to see that all of our—

Senator KITCHING: You said to me that, in fact, when someone is a recipient of an Australian laureate fellowship or a future fellowship, there are extra requirements on them. I'm asking about a particular case where someone was a recipient of a full-time future fellowship. I want to know what happened in that case.

Prof. Thomas: We'll get you the information we can.

CHAIR: Yes. Are we able to put that one on notice?

Senator KITCHING: I'm happy for it to be on notice.

Answer

Summary details of Professor Shen's ARC Future Fellowship are posted on the [ARC website](#).

All allegations related to ARC grant holders are managed in accordance with ARC's standard processes—this case was managed in accordance with ARC's standard processes.

The ARC is limited in what we can convey about individual cases due to privacy constraints, contractual, confidential and administrative decision making concerns about the provision of the information and for this reason the ARC does not comment publicly about details related to the administration of individual grants.

All ARC grants must be administered by institutions in accordance with the provisions set out in ARC Grant Agreements which include obligations to comply with applicable legislation of the Commonwealth, or of a State, Territory, or local authority, as well as obligations to comply with Commonwealth policies.

ARC grant agreements include a range of provisions, including clauses about conflict of interest and intellectual property management, to ensure the appropriate use and management of National Competitive Grants Program (NCGP) grant funding. When the ARC becomes aware of any alleged issues related to an ARC-funded grant, our standard process is to write to Administering Organisations. The focus of such inquiries is

limited to conditions of grants over which the ARC is legally permitted to request information to ensure compliance with obligations imposed by the granting of Commonwealth funding. The ARC provides institutions with a copy of the alleged issues, together with the natural justice opportunity of responding to the alleged issues as they apply to ARC grant agreement conditions.

The advice provided to the ARC by Administering Organisations is reviewed by the ARC to determine whether the grant is being administered in accordance with the grant agreement conditions. If a grant is not administered in accordance with the grant agreement, the ARC will work with the university to resolve the issue and may take follow-up action, including termination of a grant.

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Australian Research Council (ARC) Question No. IQ20-000250

Senator Kimberley Kitching on 13 October 2020, Proof Hansard page 44

Due Diligence

Question

Senator KITCHING: In what other sector do funding recipients essentially do due diligence on themselves, with that having been accepted? Is the ARC responding because they realise that a recipient of a grant doing due diligence on themselves may not be the most accountable methodology or the methodology that ensures sufficient accountability? I'd like to know whether that's why you've changed your funding application forms.

Prof. Thomas: We're all interested in assuring public and government confidence in research grants. The universities have a role in that and we have a role, and they overlap but are slightly different.

Senator KITCHING: It seems to me that there might be things falling through the gaps.

Ms Dent: I think those new questions are designed to give a mechanism to universities.

We're trying to support universities in what they're doing.

Senator KITCHING: Are you still going to use sampling methodology to see, or are you going to investigate everyone? It occurs to me that, if you're asking people to do their own due diligence on themselves, that may not be the surest method to ensure compliance. I'm happy for it to be taken on notice. Thank you very much for your time, Professor Thomas and colleagues.

Answer

Universities have the responsibility for undertaking due diligence on researchers and their partners prior to applying to the ARC for funding.

To support universities the ARC has updated its *Conflict of Interest and Confidentiality Policy* to clarify the types of personal interests that researchers are required to identify and disclose. The update is designed to increase transparency about collaborations and relationships of researchers, which may pose a conflict of interest to Australian grant activity.

In accordance with the updated policy, the ARC is asking for additional information about personal interests of researchers named on ARC grant applications. Researchers are also required to declare that they have identified and disclosed conflicts of interests to their employing university.

The new questions are designed to support transparency of personal interests and to provide a mechanism to declare relationships and support from foreign entities to the Administering Organisation and the ARC.

The additional information will support universities in implementing the *Guidelines to Counter Foreign Interference in the Australian University Sector*.

This is an evolving process and the ARC continues to work with security agencies to develop processes to ensure the integrity of the research that it funds for any issues that relate to countering foreign interference.

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Date of hearing: 13 October 2020

Australian Research Council (ARC) Question No. IQ20-000251

Senator Eric Abetz on 13 October 2020, Proof Hansard page 46

Timelines

Question

CHAIR: Can I ask quickly, then: can you please provide a time line of dates and meetings for the development of the improved due diligence and the guidelines to which you've been referring, including the development of the new questions and the times and dates of any discussions with security agencies? We'll put that on notice

Answer

As at 13 October 2020, the ARC has met with security agencies on a number of occasions to discuss the development of improved due diligence and the development of new questions (a process that commenced in mid-2018), including on the following meeting dates:

2018	2019	2020
10 July 2018	12 June 2019	10 March 2020
18 July 2018	29 July 2019	12 March 2020
14 August 2018		21 May 2020
29 October 2018		2 July 2020
		18 August 2020
		25 August 2020
		2 September 2020