

Foreign Interactions Due Diligence Tool

Anyone engaging in any activity for or with a foreign government, foreign university, foreign business or any other foreign organisation or entity as part of University business must evaluate the proposed arrangement or interaction for the risk of foreign interference or foreign influence, and to identify any statutory reporting or regulatory obligations, using this Due Diligence Tool.

Foreign interference occurs when activities are carried out by, or on behalf of a foreign actor, which are coercive, covert, deceptive or corrupting and are contrary to Australia's sovereignty, values and national interests.

Foreign influence is a reference to the activities of foreign governments seeking to influence deliberations on issues of importance to them, and which, *when conducted in an open and transparent manner*, are a normal aspect of international relations and diplomacy and can contribute to the public debate.

DETAILS OF FOREIGN ARRANGEMENT OR INTERACTION

Title or purpose

College / Portfolio

Choose an item.

Requestor name

Start date

QUESTION ONE

Are any of the following foreign entities or individuals involved or influential in the arrangement or interaction? Check box if yes.

- Foreign country or government** including a foreign national or sub-national government, including a department, agency or other public authority of that government (other than a university), or a corporation substantially owned or controlled by a foreign country or government
- Foreign university** in respect of which a foreign government is in a position to exercise [substantial control](#)
- Foreign political organisation** primarily concerned with pursuing political objectives, including a foreign political party
- An entity or individual** (whether or not an Australian citizen or permanent resident):
 - accustomed, or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of any one of the above, or
 - substantially controlled by any one of the above.

Please briefly set out your basis for ticking the above box(es).

NOTIFICATION UNDER FOREIGN ARRANGEMENTS SCHEME

Some written arrangements with foreign entities may be notifiable by Flinders to the Department of Foreign Affairs and Trade under the [Foreign Arrangements Scheme](#). This [guide](#) sets out how to determine if notification of an arrangement is required.

QUESTION TWO

Are any of the following foreign risk thresholds applicable to the proposed arrangement or interaction? Check box if yes.

Sensitive technology is involved. In assessing this, consider the following questions:

Does the technology involved require an Australian Government [Defence Export Controls](#) or [Sanctions](#) permit?

Does the technology have dual-use military, intelligence, policing or security applications?

Does the technology have the capacity to significantly enhance or pose risk to Australia’s national interest?

Is the technology a sovereign capability?

What is the technology’s timeframe to application?

Is the technology likely to significantly advance the strategic or economic interests of the host country of the research partner?

Foreign funding or rewards for control over or benefit from university operations, decisions or staff.

Example (1): All expenses paid international trip to tour a research facility offered to staff member as part of the proposed arrangement, or as part of consideration of whether to enter into the arrangement

Example (2) Offer to fund a course at Flinders, on condition of sign-off on course content

Substantial **political influence** objective

Engagement of Flinders’ staff to produce **advice or work on Australian politics**

Interaction with **foreign-sponsored talent recruitment** program

Please briefly set out your basis for ticking the above box(es).

REGISTRATION UNDER FOREIGN INFLUENCE TRANSPARENCY SCHEME

Some (mainly politically-oriented) activities on behalf of foreign principals must be registered under the Foreign Influence Transparency Scheme. Click [here](#) for further information.

If you ticked at least one box under both questions, or if you are unclear if you should check a box, refer to Legal Services for review and advice on risk mitigation as regards any potential foreign interference or foreign influence arising from the proposed arrangement or interaction.

RISK MITIGATION

While the appropriate risk mitigation measures will depend on the circumstances and are to be assessed by Legal Services on a case-by-case basis, those measures could include:

Further due diligence on counterparty

1. Undertaking further due diligence on the counterparty e.g. (paid) ASIC search, search of Australian Government Register of Lobbyists, FITS register, Australian Government Grants Register (GrantConnect), further desktop research in the language of the proposed foreign counterparty or other enhanced due diligence, for example by referral to a risk advisory firm.

Refer to **Appendix A** for a non-exhaustive list of issues to consider.

Contractual protections

2. Inclusion in relevant documentation (contract, MoU or other arrangement) of:
 - additional intellectual property protections, such as a clear expression about the agreed focus and purpose of any research contemplated by the arrangement and a prohibition on unethical, inequitable etc. use of potential “dual-use” IP
 - adequate provisions to ensure proper monitoring of changes of counterparty personnel involved, or to the effect that prior agreement to such changes is required
 - confirmation that any governing board or committee (or similar body) is advisory only and accountable to Flinders
 - an affirmation of the primacy of Australian law for all relevant activities taking place in Australia, including confirmation the parties will comply and will ensure their staff comply, with Australian law and Flinders’ policies and procedures in relation to such activities; and/or
 - clear and, where appropriate, enhanced rights of termination of the arrangement.
3. Consideration of whether Flinders have an avenue of legal recourse if research is stolen, misused or sabotaged.

Consents and disclosures

4. Seeking a Defence Trade Controls permit or Sanctions permit.
5. Registering the proposed activities in the Transparency Register under the Foreign Influence Transparency Scheme.
6. Notifying the proposed arrangement under the Foreign Arrangements Scheme.

7. Ensuring that researchers involved have fully declared membership of any foreign talent programme or equivalent commitments to foreign institutions that oblige them to disclose or transfer the research, and ultimately the IP. Refer to the requirements for declaration of foreign affiliations under the University's [Conflict of Interest Policy](#).
8. Generally, ensuring that any conflicts of interest are identified and addressed under the University's [Conflict of Interest Policy](#).

Other measures

9. Addressing concerns about academic freedom and free speech consistent with the [Academic Freedom and Freedom of Speech Policy](#).
10. Ensuring the proposed foreign arrangement complies with Flinders' IT policy or agreed procedures.
11. Requiring regular reviews of the collaboration.
12. Reconsider proceeding with the proposed arrangement. Any such consideration should be reported to the Vice-President and Executive Dean of the relevant College and/or the Portfolio Head, as well as the General Counsel.

Appendix A

List of issues to consider about foreign counterparty

- How does the home country of the proposed partner score on the [Academic Freedom Index \(Global Public Policy Institute\)](#), [The Global Freedom Index \(Freedom House\)](#) and the [Corruption Perception Index \(Transparency International\)](#)?
- Is the proposed partner well-established and what is its business history?
- How long has the proposed partner been incorporated?
- What is the proposed partner's structure, and are there any real, perceived or potential conflicts of interest?
- Does the proposed counterparty or persons associated with it (e.g., members of its governing board) have?
 - any known or suspected association with military institutions or foreign intelligence service
 - a history of bankruptcy or insolvency
 - a history of litigation
 - past involvement in corruption, bribery, theft or other unethical conduct
 - a history of intellectual property infringement or theft
 - any known or suspected association with organised crime groups, money laundering or terrorist groups?