

National Security Bill Briefing

Overview

We welcome the objectives of the National Security Bill, however we believe the proposed Foreign Influence Registration Scheme (FIRS) must complement existing protections and avoid introducing duplicative and bureaucratic requirements, which would divert resource from focusing on genuine threats.

Our members understand that working with international partners is not without risk and take their responsibilities to protect national security seriously. Therefore we work with the Government and security agencies to ensure existing legislative and regulatory safeguards are used effectively to protect the UK from those seeking to take advantage.

The Government already has oversight over a range of universities' international activities (e.g. through the visa system and export controls) **and we are concerned that additional reporting could duplicate existing regulation while adding little value to the current system of safeguards and protections.**

The requirements of the enhanced tier of the UK FIRS could include a range of international activities from student exchange programmes to research partnerships, many of which are already covered in existing legislation. The potentially duplicative and complex nature of this arrangement could limit opportunities for genuine international collaboration and risk deterring global partners, which would in turn hinder national and local R&D led growth.

If university activity is to be captured, we believe the following steps would mitigate those risks and ensure the sector's resources are focused on genuine threats, rather than needless form filling.

- 1. Dedicated, co-created university guidance describing the arrangements to be captured**
- 2. Targeted exemptions for arrangements which Government is already aware of through existing protections such as export control, the National Security and Investment Act, or by virtue of providing grant funding**
- 3. Exempting unfunded academic partnerships or philanthropic donations**
- 4. No retrospective reporting**, which has been a feature of equivalent systems in other countries but was quickly found to be unworkable because of the bureaucratic burden leading to many arrangements not being reported
- 5. Ensure the list is strictly private to respect commercial confidentiality**

Foreign Influence Registration Scheme – The need for guidance

The sector is unanimous that clear co-created guidance is needed to ensure there is no ambiguity over how the UK FIRS reporting process will work.

- **If university activity is to be included, the system must be clear and simple to use with accessible guidance that will ensure universities will not be penalised for misinterpretation or misunderstanding the system.**
- Given the Bill is backed by criminal penalties, the Government must work with us to raise awareness of new requirements with the academic community to ensure nobody is criminally penalised as a result of a confusing system - **this should include using groups like the sector-led Higher Education Export Control Association.**
- We are also calling for the legislation and FIRS to be adequately socialised before being introduced, to avoid criminal penalties for those unwittingly failing to comply

What would guidance look like?

- Make clear the type of arrangements to be captured and thresholds for how universities and academics should 'reasonably know' they are entering a registrable arrangement.
- Clear definitions of arrangements which set a high threshold for registration, for example around 'direction', 'arrangements' and 'activities'.
- Make clear where individual liability lies for arrangements signed by a university
- Make clear how the regime interacts with other legislation and how it could help further enhance universities' due diligence activities – for example, entities listed on the UK FIRS and the NSI Act's seventeen 'sensitive' technology areas could be used together to identify acute risks.

There is precedent for this happening as the higher education sector worked directly with BEIS to create guidance for the National Security Investment Act, including voluntary notification forms which has helped deliver a more practical version of the Government's initial proposals in that legislation.

Foreign Influence Registration Scheme – university activity exemptions

Currently it is unclear whether university arrangements or activities could be in scope as this will be set out in regulations and there has been no official direction. This means any of the following could be in scope:

- Research or teaching undertaken by students or staff who are directly supported by foreign state funding, for example through scholarships, stipends, fellowships or direct employment by a foreign state.
- Collaborative research projects underpinned by a mix of UK Government/Research Council funding and overseas 'foreign power' funding.
- A broad range of MoUs, which could include commitments to joint education or research ventures, where some activity is to occur in the UK (for example a student exchange programme).
- Consultancy or contract research for a 'foreign power'.
- Gifts and donations.
- Unfunded, peer to peer collaborations aimed at producing publicly available papers.
- Other commercial arrangements such as book publishing deals

All these activities are already covered by existing regulation and legislative protections so including them in the UK FIRS would be duplicative and ineffective.

We have thus far called for a blanket exemption for research activities, given the potential reporting burden and existing government oversight mechanisms. **Ideally, a blanket exemption would be preferable but we recognise this may not be possible and have suggested certain exemptions to ensure the burden for industry, academia, potential partners, and government is limited, enabling them to focus resources on genuine threats rather than duplicative reporting.**

1. EXEMPTING ARRANGEMENTS COVERED BY EXISTING LEGISLATION

The Government has oversight of **university collaborations** through a multitude of existing regulation and legislation:

- Government can block any university partnership it believes threatens UK national security, through powers granted in the **National Security and Investment Act (2022)**.
- If international research partnerships include **Intellectual Property (IP)** transfer, universities will comply with Export Control legislation, applying for an export licence where the IP has direct or indirect military applications, or Government has a concern with the partner a technology is exported to.
- **The Export Control Joint Unit (ECJU)**, and the Government's new **Research Collaborations and Advice Team (RCAT)** also advise universities on whether their activities or arrangements could pose national security risks.
- Individual international researchers and students applying to undertake research in sensitive STEM areas at UK universities must obtain security clearance through the FCDO administered **Academic Technology Approval Scheme (ATAS)** service. Vetting draws on cross-government intelligence and includes an examination of applicants' funding sources and foreign government links.
- The Higher Education (Freedom of Speech) Bill, when passed, will introduce **new transparency obligations** for universities, which will be required to disclose international commercial, philanthropic, and research income that exceeds a specified threshold in any given year.

Including in the UK FIRS university activity that is already reported to the Government is duplicative, adds little value to the existing regulatory architecture and could limit opportunities for genuine international research collaborations, which could in turn hinder national and local R&D-led growth.

2. NO RETROSPECTIVE REPORTING

The 'enhanced tier' of the UK FIRS proposal is similar to the Australian Foreign Arrangements Scheme (FAS) introduced in 2020, where universities must register arrangements with foreign governments and non-commercial organisations under foreign government control. FAS included a requirement for submitting historic partnerships.

The Australian Group of Eight research intensive universities reported that this required them to submit thousands of partnerships when the scheme went live. This was significantly higher than the Australian government predicted, and we have been reliably informed that thousands of the submissions from universities are still not on the public register because of a lack of processing capacity in Government.

As of August 2022, the register is no longer being maintained by the Australian Government as a result of underestimating the number of registrations by at least 10,000. Having no retrospective reporting will ensure that there are no similar problems with the UK FIRS.

3. EXEMPT UNFUNDED ACADEMIC COLLABORATIONS AND PHILANTHROPIC DONATIONS

The Bill requires the registration of arrangements where foreign powers 'direct' the UK party to undertake activity. **Unlike commercial arrangements, philanthropic donations do not meaningfully enable donors to 'direct' activities as this would be restricted by charitable regulations. Therefore, we believe there is scope to exempt these donations.**

Unfunded academic collaborations, such as two professors agreeing to work on a publicly available joint paper, should also be exempted:

- These types of engagements are the lifeblood of academic discovery and neither academic 'directs' the other in these type of partnerships - they are mutually beneficial collaborations that advance our understanding of key areas such as oncology, and technology relating to net zero.
- These partnerships should be exempt because it would be almost impossible to capture informal interactions on a consistent basis without seriously restricting academic freedom
- As there are hundreds of thousands of these arrangements, no exemption will likely overwhelm both academics and government with the level of registrations that will risk the effectiveness of the FIRS

ANNEX A – SAFEGUARDING RESEARCH

Before forming new international partnerships, Russell Group universities undertake a range of robust security checks to ensure:

- **The partnership aligns with the values of the institution** and will not limit academic freedom
- **International commitments around non-proliferation and human rights are upheld**
- **Intellectual property is protected**
- **DIT sign-off partnerships** if they involve research that could have military application
- **The partnership is compliant with all UK regulation and legislation**, including the new National Security and Investment Act

Our universities work with the Government, the Centre for the National Protection of Infrastructure (CPNI), the Export Control Joint Unit (ECJU), and UUK to develop robust measures that protect UK IP and research when universities enter collaborative research agreements with international partners.

Russell Group universities have worked to implement changes to guard against hostile interference in several different ways. This includes:

- **Terminating** some international collaborations early, including ending contracts
- **Introducing new governance structures** for the oversight of international partnerships, e.g. establishing ethics committees with representation from University Councils
- **Rejecting new offers of international collaborations**, where enhanced due diligence processes identified national security or end-use risks
- **Introducing mandatory training programmes for staff and research students**, focussed on protecting research and managing international partnerships, including training relating to cybersecurity risks
- **Using enhanced IT systems** to protect sensitive research in collaboration with technical agencies – including measures to protect vaccine research.
- Reviewing internal academic freedom policies, ensuring staff are protected in the UK and overseas
- **Developing internal communication campaigns** promoting awareness of risks and the steps required to mitigate