



Swinburne University of Technology

Response to the Review of the Foreign Arrangements Scheme Consultation Paper 2024

Swinburne University of Technology (Swinburne) welcomes the opportunity to respond to the Review of the Foreign Arrangements Scheme Consultation Paper 2024. Swinburne appreciates engagement to date from the Department of Foreign Affairs and Trade (DFAT) including through a recent roundtable discussion on 7 July 2024, we are eager to continue these broader discussions post this consultation.

Australian universities are active contributors to the Foreign Arrangements Scheme on a daily basis. Since its commencement in 2020, universities have notified more than 7,000 arrangements through the online portal making up more than 70% of all reported arrangements.

Swinburne understands the importance of the Scheme, and we believe through this review improvements can be made to the significant administrative requirements placed upon universities including the narrowing of scope and definitions in the Act to ensure it is fit-for-purpose. In addition, there is opportunity through this review to examine duplication in reporting and better regulatory alignment with other government agencies.

In responding to this review, Swinburne is also supportive of the advocacy and submission from Universities Australia, we agree with their suggested amendments to the Foreign Arrangements Scheme and Foreign Relations Act 2020.

Swinburne makes the following recommendations:

1. Through further consultation with the higher education sector, **narrow key definitions including that of 'arrangements'** to ensure the purpose is being achieved and reduce regulatory burden of compliance on universities and DFAT.
2. Further examine **duplication in reporting and better regulatory alignment** with other government agencies' reporting requirements.
3. **Greater guidance and support for organisations** in identifying types of arrangements and level of information that is required to be disclosed.

Improvements to existing Foreign Arrangements Scheme

Like many universities, Swinburne is a regular contributor in reporting foreign arrangements, we are collaborating with more universities and foreign organisations than ever before. This connection on a global scale brings greater insight and benefits to the research and development undertaken by the

university and to the broader community, however, this does bring challenges with more complex reporting.

Swinburne agrees with Universities Australia - the nature of the university sector, founded upon global collaboration, as well as the broad definitions in the Act has led to a significant number of university arrangements being captured by the scheme. A narrowing of the scheme's scope and definitions in the Act would best serve the interests of both Government and the university sector.

Examples include a narrowing of the definition of 'arrangements' to only include legally binding written agreements with exclusions for 'basic research' as suggested by Universities Australia submission; greater clarification on the use of core and non-core terminology and what is in and out of scope per the current policy.

Further to the above, one of our main observations with respect to the policy is that commercial entities with majority foreign government ownership in our view do pose foreign interference risk yet are not reportable if their primary business is of commercial nature.

Reduce duplication in reporting and support better regulatory alignment

The Australian Government has embarked on an ambitious agenda to better protect our domestic interests, intellectual property and reformed export controls. Swinburne supports this reform but urges all governments to consider greater alignment and minimise duplication.

Australia's higher education sector is one of the most highly regulated sectors in the world. University arrangements are examined by considerable number of frameworks, acts and regulations across both state and federal governments. These include the Foreign Investment Compliance Framework, the Defence Trade Controls Act 2012, Autonomous Sanctions Act 2011 and Foreign Influence Transparency Scheme Act 2018.

This level of oversight is unprecedented amongst global partners and can potentially damage our valuable relationships. Swinburne agrees with Universities Australia in their submission that the reputational disruption cannot be considered in isolation. The international education, and university sector more broadly, has had significant regulatory changes and burden placed upon it through the Migration Review, International Education and Skills Strategic Framework and Australian Universities Accord.

Swinburne strongly argues that any further reforms including through this review, examines consistency and complementarity with existing frameworks, acts and regulations.

An example includes greater alignment in relation to research with the Defence Export Controls and the Critical Technology Standards, with consistent definition and requirements of what 'basic research' entails.

Greater guidance and support for organisations

As referenced earlier, Swinburne was grateful for the in-person roundtable discussion on 7 July 2024 in relation to the review of the Foreign Arrangements Scheme Consultation Paper 2024, and subsequent offer for information sessions on a range of related matters with Swinburne and other Victorian Universities.

Swinburne agrees with Universities Australia that through this review a mechanism is included in the policy to allow universities to obtain further information and appeal decisions if the Minister makes a declaration that amends or prohibits an arrangement.

Information on some foreign entities is often difficult to obtain. We would welcome guidance on the types of information universities should look out for, how to triage these and what assistance is available when sufficient information is unavailable for assessing foreign interference risk and determining if the arrangement is reportable. For instance, numerous overseas universities publish their information in a foreign language almost exclusively. Most universities do not have resources to arrange the translation of this information and documentation. As for commercial entities, establishing as to whether their business is of public service or of commercial in nature is difficult in the absence of information available to us via public web pages.

Swinburne like many Australian universities support in-country operations, our Sarawak campus located in Malaysia is a joint partnership with the Provincial Government, it takes considerable effort and due diligence to track all arrangements undertaken at that campus outside of Swinburne. It is not always clear as to whether we need to report on agreements between Swinburne and Sarawak and arrangements Sarawak initiates without Swinburne being involved.

Clear guidance on universities' reporting requirements regarding arrangements involving their overseas campuses would be greatly appreciated. This guidance should consider the various different models under which these campuses operate.

We would also appreciate if DFAT could facilitate to facilitate better information sharing and best practice across the sector.

When the Foreign Arrangements Scheme launched in 2020, Swinburne ran several information and training sessions for our staff. However, with a growing number of complex arraignments and commencement of new staff there is a need for DFAT facilitated information sessions. We would welcome your support in advocating for this level of engagement in the future.

In summary

The higher education sector needs to be stronger, future-focused and resilient, and responsive both to the needs of the nation and to global ructions. Swinburne welcomes the opportunity to respond to the Review of the Foreign Arrangements Scheme Consultation Paper 2024 and acknowledges the need to undertake periodic review of important schemes such as this to respond to ever growing global collaborations.