



# UNIVERSITY FOREIGN INTERFERENCE TASKFORCE TRANSNATIONAL EDUCATION WORKING GROUP

## Guidance Note on Due Diligence

### BACKGROUND

This Guidance Note has been prepared by the University Foreign Interference Taskforce (UFIT) Transnational Education Working Group (TNEWG). This Guidance Note is supplementary to the [Guidelines to Counter Foreign Interference in the Australian University Sector](#) (the Guidelines) and is intended to offer universities additional advice on due diligence, specific to the transnational education environment.

Broadly, transnational education (TNE) is defined by UNESCO as all types of higher education programmes “in which the learners are located in a country different from the one where the awarding institution is based.”<sup>1</sup>

The Australian Security Intelligence Organisation reported in October 2022 that foreign powers continue to seek to interfere in the sector in pursuit of a variety of objectives, particularly where commercial or strategic interests are at stake. As Australia’s university sector is at the leading edge of policy, research and scientific development, it is essential that universities continue to build awareness and resilience to foreign interference risk.

As Australia looks to the future of its international education sector, diversification and innovation in transnational education course offerings is expected to be a key part of sector growth. The TNEWG has developed an *Australian Transnational Education Arrangements Matrix*, provided at **Appendix A**, which captures the broad range of TNE delivery approaches.

The continued broadening of Australian TNE offerings brings a dynamic and shifting risk landscape which may require different approaches from the sector to protect against the risk of foreign interference.

The risks faced by the sector may extend to:

- increased offshore data holdings and interaction, extending to increased cybersecurity vulnerabilities;
- protective security risk arising from infrastructure maintained offshore;
- lack of transparency of partner interests;
- managing offshore student data to adhere to Australian privacy laws;
- student and staff safety and wellbeing; and
- navigating the intersections of Australian and offshore laws, protections and freedoms.

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<sup>1</sup> UNESCO/CEPES, (June, 2001). Transnational Education Provision; Enabling Access or Generating Exclusion in Higher Education in Europe, Vol. XXV, No.3.

## TRANSNATIONAL EDUCATION RISK MANAGEMENT CONSIDERATIONS

This framework establishes a range of counter foreign interference considerations that universities may wish to take into account when considering the complexity of operating offshore, online or through partnerships (including multi-party and commercial arrangements). Universities are encouraged to use this resource in conjunction with their own risk management policies and procedures.

| Key Theme                                    | Consideration  |
|--|--|
| <b>Legislative Obligations (Cth)</b>         | <p>Consider your legislative obligations, including but not limited to:</p> <ul style="list-style-type: none"> <li>• <a href="#">Australia's Foreign Relations (State and Territory Arrangements) Act 2020</a> (Cth) (the Foreign Arrangements Scheme)</li> <li>• <a href="#">Foreign Influence Transparency Scheme Act 2018</a> (Cth) (the Foreign Influence Transparency Scheme)</li> <li>• <a href="#">National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018</a> (Cth)</li> <li>• <a href="#">Defence Trade Controls Act 2012</a> (Cth)</li> <li>• <a href="#">Autonomous Sanctions Act 2011</a> (Cth)</li> <li>• Relevant state legislation applicable to your state of operation, such as the <i>Human Rights Act 2004</i> for universities operating in the ACT.</li> </ul>  |
| <b>Location and Jurisdiction</b>             | <ul style="list-style-type: none"> <li>• Consider legal frameworks, institutional autonomy and freedoms in the partner country compared to those in Australia and whether this requires newly established policy and procedure specific to the partner environment.</li> <li>• Consider what jurisdiction the partnership will be governed under. Consider if Australian law will prevail in a dispute, or if the partner's/provider's jurisdiction will take precedent.</li> </ul>  |
| <b>Background and Reputation</b>             | <ul style="list-style-type: none"> <li>• Consider the background and reputation of the proposed partner/provider, including any possible reputational risks and political affiliations.</li> <li>• Consider conducting a broad open-source search to identify any issues of concern regarding the operation of the partner/provider or their history.</li> <li>• Consider how the proposed partner/provider is governed, including its Council/Board and any publicly available business or strategic plans.</li> <li>• Consider engaging with trusted partners who interact or work with the proposed partner/provider to obtain reference as to their operations and reputation.</li> <li>• Consider training or communications to staff and students to raise awareness on potential variations, limitations and risks arising in the partner operating/study environment.</li> </ul> |
| <b>Deliverables</b>                          | <ul style="list-style-type: none"> <li>• Consider the type of relationship and the scope of the joint deliverables.</li> <li>• (If applicable) Consider the level of control the proposed partner/provider will have over the collaboration and any joint deliverables.</li> <li>• (If applicable) Consider the types of technologies being utilised or accessed as part of the relationship.</li> </ul>   |
| <b>Risk Management and Conflicts</b>         | <p>With respect to your own risk management policies, procedures and frameworks:</p> <ul style="list-style-type: none"> <li>• Consider the different triggers for escalation of the internal clearance/risk owner.</li> <li>• Consider your data storage, cyber security and protective security risk management and whether extra measures need to be implemented.</li> <li>• Consider whether conflict of interests checks, or declarations need to be undertaken.</li> <li>• Consider whether financial assessments or declarations need to be undertaken.</li> </ul>   |
| <b>Contracts and Commercial Arrangements</b> | <p>Reinforce the need for strong contractual arrangements to formalise relationships with new partners and providers.</p> <ul style="list-style-type: none"> <li>• Consider including clear end dates, dispute resolution, clauses addressing non-disclosure or providing false information, IP ownership/transfer and termination clauses.</li> </ul>   |

## FURTHER GUIDANCE

For further information regarding the above, please refer to:

- For the offshore delivery of Australian higher education awards, visit the *TNE Toolkit* on the [TEQSA Website](#).
- For the *Guidelines to Counter Foreign Interference in the Australian University Sector* or other Department of Education resources, visit the [Department of Education's website](#).
- For the Countering Foreign Interference Coordination Centre, visit the [Department of Home Affairs' website](#).
- For the Foreign Arrangements Scheme, administered by the Department of Foreign Affairs and Trade (DFAT), visit DFAT's [Foreign Arrangements Scheme website](#).
- For the list of Critical Technologies in the National Interest, visit the [Department of Industry, Science and Resources website](#).

## APPENDIX A - AUSTRALIAN UNIVERSITY TRANSNATIONAL EDUCATION ARRANGEMENTS

This matrix captures a broad range of typical transnational education delivery approaches and is not an exhaustive list of arrangements that may be in place across the university sector.

| TNE Arrangement  | Description   | Who awards the degree?                               | Where does the teaching take place? *   | Who are the students and staff?  | Category of study                      | Who are key local entities  |
|--|---|--|---|--|--|---|
| International Branch Campus<br><i>Commonly used terms: overseas, Satellite or offshore campus</i>  | Australian university establishes a satellite bricks and mortar campus offshore.  | Australian university                                | Offshore, at the branch campus. May also be delivered online to students in this or other countries.          | Staff and students may be local to the destination, from Australia or from elsewhere.  | Undergraduate, postgraduate, HDR       | The off-shore national and/or local governments<br>Local regulatory body          |
| Collaborative Provision / Franchise arrangement  | Australian university authorises an international partner institution to teach their programs. Students do not travel to Australia as a required part of the program. | Australian university                                | Offshore at a partner institution.  | Students and staff may be local to the destination or from elsewhere.  | Undergraduate, postgraduate, HDR       | Partner institution<br>National and/or local governments<br>Local regulatory body |
| Twinning Program<br><i>Common terms: Articulation Agreement</i><br><i>Note that some may be simple pathway agreements with no offshore delivery as such and therefore may not fit the definition of TNE.</i> | Australian university and partner institution agree a pathway from overseas to Australia, crediting overseas study into the Australia degree program.                 | Australian university                                | Firstly offshore at a partner institution, then in Australia. May also include components of online delivery. | Students are from partner country. May also be open to students from third countries.<br><br>The offshore component is delivered by staff from the partner institution while the Australian component is delivered by Australian university staff. | Undergraduate, postgraduate, HDR       | Partner institution<br>National and/or local governments                          |
| Joint Degree Program   | Australian university and partner institution deliver a single program, students have period of time studying in each country.  | One degree is awarded, with both institutions listed | Both in Australia and offshore. May also include components of online delivery.                               | Students are from Australia and from the partner country. May also be open to students from third countries.<br><br>Staff are based in the Australian university and the partner institution.  | Undergraduate, postgraduate coursework | Partner institution<br>Local regulatory body                                      |

| TNE Arrangement  | Description   | Who awards the degree?                          | Where does the teaching take place? *   | Who are the students and staff?   | Category of study                | Who are key local entities                               |
|--|---|---|---|---|----------------------------------|--|
| Cotutelle and Joint PhDs   | A research student is enrolled at two universities, spending time at both during candidature.   | Both universities are on the testamur           | Joint supervision is undertaken, with student spending time in both countries.  | Australian and international students and staff.  | HDR                              | Partner institution<br>Local regulatory body             |
| Distance / online Program  | Australian university delivers program directly to students offshore, enrolled in the Australian university.  | Australian university                           | Offshore  | Australian university staff delivering to students from a variety of countries.   | Undergraduate, postgraduate, HDR | None   |
| Double Degree<br><i>Common terms: Dual degree</i>                    | Australian university and a partner institution agree a program structure that leads to a degree from each partner.   | Two degrees awarded, one from each institution. | Both in Australia and offshore. May also include components of online delivery.   | Students and staff are from Australia and from the partner country. May also be open to students from third countries.        | Undergraduate, postgraduate, HDR | Partner institution.<br>Local regulatory body            |
| Outbound Student Exchange, Study Abroad and HDR research placements. | Student enrolled in course with Australian university, attends overseas partner institution for a period of time (up to 12 months) during the course and receives course credit for studies at partner institution. | Australian university                           | Predominantly at Australian institution, then at partner institution for up to 12 months. May include components of online delivery.          | Students are from Australia. May also be open to students from third countries. Staff are based in the Australian university. | Undergraduate, postgraduate      | Partner institution<br>National and/or local governments |
| Inbound Student Exchange, Study Abroad and HDR research placements.  | Student enrolled in course with overseas university, attends Australian partner institution for a period of time (up to 12 months) during the course and receives course credit for studies at partner institution. | Overseas university                             | Predominantly at overseas institution, then at Australian partner institution for up to 12 months. May include components of online delivery. | Students are from overseas. Staff are based in the overseas university.   | Undergraduate, postgraduate      | Partner institution<br>National and/or local governments |

#### Teaching and Learning:

\*All programs in the matrix may be delivered through a range of methods including face-to-face, distance and blended education mode.

