

## National Security Bill – Committee Stage Briefing Foreign Influence Registration Scheme

### Amendments 88 and 97 – Guidance for the Foreign Influence Registration Scheme

**Amendments 88 (Lord Ponsonby) and 97 (Lord Wallace) ensure guidance is provided on the Foreign Influence Registration Scheme and for other provisions of the Bill.**

We – alongside the whole higher education sector - are unanimous that clear co-created guidance is needed to ensure there is no ambiguity over how UK FIRS reporting will work. If university activity is to be included, the system must be clear and simple to use with accessible guidance that will ensure:

- a) **Universities and government units (like BEIS' Research Collaboration Advice Team) can continue to focus on genuine security threats**, rather than spending significant time answering queries about whether individual partnerships should be registered
- b) **Government is not overwhelmed with referrals**. Without clear guidance outlining which arrangements to register, universities will err on the side of caution and register all partnerships that could possibly fall in scope. The equivalent Australian scheme did not include clear guidance and it resulted in high volumes of registrations which were beyond the Government's capacity to process meaning many were left unscrutinised
- c) **Academics and universities are acting in line with government expectations**, ensuring they will not be penalised for misinterpretation or misunderstanding the system

Given the Bill is backed by criminal penalties, the Government must work with the Higher Education sector to raise awareness of new requirements with the academic community. This will ensure nobody is criminally penalised because of a lack of understanding - this should include using groups like the sector-led Higher Education Export Control Association.

Like the National Security and Investment Act, the FIRS must be adequately socialised via guidance before being introduced, to avoid criminal penalties for those failing to comply because of a lack of understanding:

- a) For example, during the implementation of the NSIA, BEIS worked with sector groups to allow academic stakeholders to co-produce guidance.
- b) Once guidance was produced, BEIS presented at multiple forums comprising university leaders who would be responsible for communicating guidance with the wider academic community. BEIS have also undertaken NSI Act 'teach-ins', further explaining issues within guidance to various sectors
- c) The Home Office should learn lessons from BEIS and undertake the same process.

## What would guidance look like?

**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.**

**Outline which research arrangements and activities fall in scope of the 'enhanced tier', with illustrative case studies and examples.**

**Ensure the definition of what it means to be 'directed' by a specified person will be crucial here. Clear definitions which set a high threshold for registration will be key to a proportionate, targeted, and effective enhanced tier.**

**Make clear whether Government is considered to be a 'party' to these research partnerships and whether they are therefore exempt from registration.**

## How can guidance be created?

Specific HE-related guidance is not a new idea for national security legislation. 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.

**During the drafting of the NSIA, BEIS established a 'National Security and Investment Expert Panel' to consult affected sectors on a range of issues relating to the Act ahead of it going live. The Russell Group sat on this panel, representing research-intensive universities.**

**The Russell Group worked with a range of academic representatives, including university legal practitioners and those responsible for implementing elements of the Act relating to research partnerships, to identify areas guidance should address and how guidance would be most impactful for the academic sector.**

**For example, universities wanted guidance to include illustrative case studies covering specific areas academics were most likely to be confused about. BEIS then drafted guidance, and we subsequently helped iterate that guidance with the help of academic stakeholders.**

**The Russell Group also helped develop registration forms, networking BEIS with the practitioners who would be filling in forms to ensure they were clear and minimised unnecessary bureaucracy**

## Exemptions for HE activity already registered via existing legislation – Amendment 104

Amendment 104 will ensure that all foreign activity already registered with government via existing legislation is exempt from the Foreign Influence Registration Scheme. This will ensure the FIRS complements existing protections and does not introduce duplicative or bureaucratic requirements, which would divert resource from focusing on genuine threats.

Currently it is unclear whether university arrangements or activities could be in scope of the FIRS 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

The Government already has oversight over a range of universities' international activities, and we are concerned that additional reporting could duplicate existing regulation while adding little value to the current system of safeguards and protections. Existing protections and safeguards include:

- a) Government can block any university partnership it believes threatens UK national security, **through powers granted in the National Security and Investment Act (2022).**
- b) 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.
- c) **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.
- d) **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.
- e) **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 university activity that is already reported to the Government in the UK FIRS is duplicative, adds little value to existing regulation and could limit opportunities for genuine international research collaborations, which could in turn hinder national and local R&D-led growth**

## How university activity is already covered by the National Security and Investment Act

The National Security and Investment Act introduces three key measures that regulates university activity:

- a) Investors must obtain Secretary of State (BEIS) approval when acquiring specified levels of voting rights or shares in businesses which operate in [17 sensitive areas of the economy](#). BEIS's new Investment Screening Unit (ISU) decides whether to approve or reject investments, based on the risks posed to UK national security. This is called the 'mandatory regime' and applies to investments in university spinouts.
- b) Universities are encouraged to 'notify' the Secretary of State whenever 'ideas, information or intellectual property' is transferred, where that could give rise to national security concerns. The ISU then decides whether to approve or reject 'notifications', based on the implications for UK national security. This is called the 'voluntary regime'.
- c) Regardless of whether a university voluntarily notifies Government of a partnership, the Secretary of State can 'call-in' any partnership that involves the transfer of ideas, information or intellectual property, and impose remedial actions, which has included orders to terminate partnerships.

#### Case Study: diverting capacity from focussing on genuine risks

BEIS's new Research Collaboration Advice Team (RCAT) became operational in 2022. It has regional offices across the country and acts as a source of advice and guidance for universities where they are considering international research activities. RCAT has been invaluable to the sector, helping universities navigate complex individual partnership proposals, for example those involving dual-use technologies.

If the UK FIRS does not have a clear and proportionate scope, with dedicated university guidance, RCAT could become inundated with mundane queries about whether a university or academic should register a partnership with the UK FIRS. This could mean RCAT's focus switches from helping identify and mitigate hostile activity to helping the sector with form-filling