

2 August 2024

by email: [AFRA.Review@dfat.gov.au](mailto:AFRA.Review@dfat.gov.au)**Griffith University response to the *Foreign Arrangements Scheme Consultation Paper 2024***

Griffith University welcomes the opportunity to provide comment on the Australian Foreign Relations Act (FRA) consultation. Griffith University shares the Australian Government's goal to support a peaceful, stable, prosperous region. Australian universities play an important role in supporting this agenda with soft diplomacy, relationship building and mutual understanding through our research, partnerships and education programs. Griffith University recognises the importance of ensuring that foreign arrangements that we consider entering must not adversely affect Australia's foreign relations or be inconsistent with Australia's foreign policy.

International collaboration is central to Australia's research and development excellence and economic prosperity. Secure international collaborations enable a diverse, rich and nuanced set of engagements that support Australia's long-term national interests, attracting great talent and capabilities, enhancing capacity and our growth. Partnerships with international universities and other internationally based organisations are highly beneficial to Australian universities and to our broader society.

Griffith recognises that national security and foreign relations risks are a critical consideration and that robust mechanisms need to be in place to manage and mitigate the risk of undue foreign influence and interference. Since 2019 there has been a significant refocussing across the sector to assuring safe and secure global engagement. This work has benefited from collaborative efforts of the University Foreign Interference Taskforce and ongoing engagement with key Government Departments and University networks. In this regard, the FRA added additional fuel to an already burning platform for the sector.

**1. Has the Foreign Relations Act been effective in delivering against its objectives to ensure consistent adherence to Australia's foreign policy through foreign engagement?**

It is difficult to ascertain from a higher education sector perspective whether FRA has been effective in delivering against its objectives. At the time of its introduction, Griffith recognised the drivers for the FRA and the need for the Minister to have the authority to void or vary arrangements that were not in the national interest. The design of the legislation appears to have been effective in relation to State Government arrangements with foreign nations with values and interests that do not align with those of Australia, but this is less clear with respect to universities entering into arrangements.

From the public Foreign Relations Scheme annual reports, we note that from commencement of the Act until the end of 2023, only 4 declarations were made by the Minister cancelling or

varying foreign arrangements that were in operation and all 4 of these determinations were made within the first year of the enactment.

Griffith also understands that over 17,000 submissions having been made under the Foreign Arrangements Scheme, less than 10,000 of these are currently listed in the Public Portal, and that more than 80% of those arrangements on the Foreign relations Scheme Portal involve Australian universities.

We are concerned that the ongoing high volume of low-risk submissions from universities is effectively swamping the Department with noise, diminishing their capacity to recognise and respond to higher risk matters. We would therefore suggest that, as expounded below, further consideration be given to the FRA scope including the adoption of risk thresholds for the reporting regime to ensure that the Department can readily identify those in need of closer exploration.

## **2. How could the operation of the Foreign Relations Act be improved?**

### **Are there amendments to the Foreign Relations Act that would enhance its operation?**

Griffith recognises the positive intent of the inclusion of the higher education sector in the scope of the FRA and was appreciative of the consultation undertaken to support our shared understanding of the likely impacts, risks and benefits for both Universities and the Department. At the time there were significant concerns raised regarding the nature and volume of arrangements that would be captured under this legislation which relating to standard university operations, and which were already the subject of extensive due diligence.

As anticipated, these non-core arrangements appear to make up around 80% of submissions to the Foreign Relations Scheme and, as above, we are our concerned that this volume diminishes the Department's capacity to recognise and respond to higher risk matters.

Amendments that could address this unintended consequence may include:

- Changing the scope of the Act to remove universities, enabling the Department to more effectively deploy resources toward higher risk activities and parties.
- Introducing more nuanced submission requirements using a risk-based threshold, potentially supported by a Countries List.

## **3. Are there opportunities for the Foreign Relations Act to better support international cooperation in the national interest?**

Griffith suggests that a significant improvement may be realised through better alignment of the various instruments that make up an increasingly fragmented suite of laws with a national and regional security focus. The legislative environment seemingly duplicates responsibilities across multiple government departments which results in disproportionate bureaucratic responses and variable costs for both the sector and government.

Griffith University is governed by a significant array of laws and guidance relating to secure foreign engagement in the national interest, including but not limited to:

- *Australia's Foreign Relations (State and Territory) Act 2020 (Cth)*
- *Foreign Influence Transparency Scheme Act 2018 (Cth)*
- *Autonomous Sanctions Act 2011 (Cth)*

- *Defence Trade Controls Act 2012 (Cth) (amended 2024)*
- *Security of Critical Infrastructure Act 2018 (Cth) (amended 2023)*
- *University Foreign Interference Taskforce (UFIT) Guidelines*
- *Commonwealth Integrity Commission Bill 2020*
- *Defence Security Principles Framework*

These are in addition to the state and federal legislative instruments that govern higher education in Australia and the conduct of a statutory body in Queensland.

International collaboration is critical to Australia's research and development and a vital mechanism to ensuring that we maintain a world-class higher education system and attract global talent. Regrettably, there is a common perception that the FRA hinders these efforts.

An unintended consequence of the FRA, that has had negative impacts on both existing and potential collaborations, is the effect on academic behaviour. Despite efforts to educate and support staff in understanding the Act (also confounded by the many interrelated schemes and compliance obligations), concerns have regularly been raised regarding the status of existing and prospective partnerships – that is, whether these may subject to a Departmental determination requiring variation or cancellation. Anecdotally, international partners have also expressed confusion about Australian institutional autonomy. Certainly, academics are weighing up whether initiating discussions toward a partnership could ultimately damage their reputation domestically and/or with their overseas counterparts, which diminishes their appetite to build innovative international collaborations.

Addressing these apprehensions about potential government intervention would enable more innovative and cutting-edge research collaborations of benefit to both the national interest and global engagement. This could be achieved through greater clarity of intent and reduction in the scope of the Act and fostering more (secure) international collaborations.

We have a shared desire to augment Australia's global influence and cooperation and responsible partnerships that bring innovative solutions to address modern Australian issues are critical to this. We therefore need an FRA that deters high risk conduct but equally encourages positive collaborations that support Australia's national interests, which includes its reputational and economic interests.

#### **4. Could the Foreign Relations Act be better calibrated to address foreign policy risks and changing foreign policy settings?**

Reiterating some earlier comments, there is a grounded, data-led opportunity for the Department to identify where the real risks that FRA seeks to mitigate actually lie, and to use this understanding to recalibrate the Act. The Act could be adjusted to reduce the impact of opportunities missed due to perceived risks. This would help in balancing foreign policy objectives with practical collaboration needs.

Griffith recommends:

- Retaining scope for the Act to enable dynamic and proportionate adjustments to changing foreign policy settings.
- Changing the scope of the FRA to remove organisations that represent the highest volume of 'transactions' and have been demonstrated to be of low risk to Australia's foreign relations, noting:

- many other legislative instruments and guidance exist which support and assure secure global engagement, in the national interest;
  - staff in Australian universities now have much higher levels of awareness of the geopolitical landscape and inherent risks than existed in 2019, and in response have implemented stronger governance oversight, internal controls and processes across all aspects of our operations;
  - the opportunity to more effectively deploy Departmental resources toward higher risk activities and parties;
  - the opportunity to reduce the administrative load on universities;
  - the benefit of more positive signals to university staff that their efforts to foster secure international arrangements are valued and valuable to Australia.
- Introducing less ambiguous guidance and more nuanced submission requirements, such as using a risk-based threshold, potentially supported by a Countries List.

**5. Should the scope of the Foreign Relations Act be changed to apply to a broader or narrower range of international cooperation?**

Please refer to response to Q3 and Q4 regarding the rational narrowing of scope.

While the legislation may have been useful in further highlighting issues and ensuring universities had appropriate policies and processes and policies, the future benefit vs cost is less clear. An FRA with more focused scope would ensure that resources are efficiently utilised without overregulating areas that already demonstrate responsible engagement.

**6. Does the Foreign Relations Act strike the right balance between achieving its objectives and the administrative requirements it places on states, territories, local governments, and universities?**

Please refer also to response for Q2.

For the higher education sector, the current balance seems weighted towards disproportionate administration resulting in significant direct and opportunity costs. Not only does the FRA divert resources from the core objectives of fostering secure international partnerships and research, but it has also dampened our reputation and the confidence of some collaborators through mixed signals about whether we are 'open for business' (able to exercise institutional autonomy). Similarly, we've seen experienced researchers withdraw from productive research relationships, because (rightly or wrongly) of the perceived barriers and diminished confidence about return for effort in the event of an adverse Ministerial decision.

**7. Are there additional ways that the Foreign Relations Act can improve transparency and awareness of international engagement, including through the Public Register?**

Griffith recognises the potential for diplomatic and reputational risks that could arise from including additional information on the Public Register.

Griffith suggests that the Register itself is adequate and fit-for-purpose, however there may have been a significant opportunity missed by not harnessing and sharing analytics and

insights with key stakeholders. Originally, the Register was flagged to universities as a growing resource that would aid our understanding of high-risk arrangements, partners and countries. This has not been the case. It would be very helpful to consider appropriate mechanisms that can draw upon this rich data set to share information about any areas of concern or risks that could support well informed risk mitigation, as opposed to post hoc interventions.

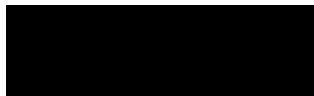
**8. Are there opportunities to better support compliance with the Foreign Arrangements Scheme, including through publicly available information and outreach initiatives?**

Please refer also to response for Q7.

Developing clear, sector-specific, publicly available information about the Scheme and implementing proactive outreach initiatives could better guide and encourage the academic community, in the case of higher education, to continue to develop and engage in secure, productive international partnerships.

Global engagement and collaboration is highly beneficial to Australian society and fostering secure international research and development partnerships is essential to support Australia's long-term national interests.

Yours sincerely



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