

Monash University Procedure

Procedure Title	Sanctions Compliance: Admission and Enrolment of Students and Provision of Education and Research Training Procedures
Parent Policy	Sanctions Compliance Policy
Date Effective	08-May-2013
Review Date	08-May-2016
Procedure Owner	Pro Vice-Chancellor (Research)
Category	Operational
Version Number	1.0
Content Enquiries	Solicitor Office
Scope	<p>Sanctions Compliance Policy</p> <p>All campuses and research schools</p> <p>Monash College</p> <p>All staff</p> <p>All affected students</p> <p>Sanctions Compliance: Admission and Enrolment of Students and Provision of Education and Research Training Procedures</p> <p>All campuses and research schools</p> <p>Monash College</p> <p>All staff</p> <p>All affected students</p> <p>Sanctions Compliance: Research Collaboration and Research Services Procedures</p> <p>All Australian campuses and MSA</p> <p>All Australian campus based staff and MSA</p>
Purpose	<p>The Policy identifies the admission and enrolment of students (including access to and use of Sanctioned Goods in connection with the enrolment), receipt of fees (including tuition fees) and the provision of research training as Key Risk Activities.</p> <p>These Procedures assist staff to assess and respond to identified situations to facilitate the University's compliance with the Sanctions Laws. These Procedures are supported by a risk assessment tool known as the Australian Sanctions Compliance Form.</p>
PROCEDURE STATEMENT	

1. Review of Student Admissions/Enrolments and Student Sponsors
 - 1.1. Overview

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Each year the University and Monash College admits and enrolls students to study its courses at its Australian and international campuses and research schools. Many of these students pay tuition fees. Payments may be made by the student directly, or by a sponsor who has provided the University or Monash College with an undertaking that the sponsor will be responsible for payment of the student's tuition fees.

International students studying in Australia have been subject to DIAC scrutiny of their visa application before being granted the right to study in Australia. Such scrutiny seeks to establish, amongst other things, that the prospective student is not a Prohibited Person and is not acting on behalf of or being funded by a Prohibited Person or Entity.

Payments received in Australia are subject to checks performed by Australian banks. The checks are to ensure the payment is not received from a Prohibited Person or Entity.

The University and Monash College rely upon the scrutiny of DIAC and checks by Australian banks, as an initial screening. Further, these Procedures are adopted as the exercise of reasonable precautions and due diligence to identify and respond to the possible:

- a) admission or enrolment of a Prohibited Person as a student of the University or Monash College, and possible subsequent payment to them of a scholarship; or
- b) receipt of a payment of tuition fees from a Prohibited Person or Entity.

This process is administered by Education Business Services. Any compliance concern identified is referred to the University Solicitor to provide advice to the PVC(R) or CEO of Monash College, for decision.

1.2. **Process**

At regular intervals related to student admission/enrolment cycles, Education Business Services will obtain a list setting out:

- a) details of all students under offer, admitted and enrolled at the University and Monash College;
- b) details of all sponsors of a student mentioned in (a) who have undertaken responsibility to pay the student's tuition fees.

Education Business Services will compare these lists with the consolidated DFAT List to identify potential matches between the name of a student or sponsor and a name on the DFAT List. The comparison is done using IT software provided by DFAT for this purpose. The software will have match tolerance thresholds predetermined by the University, with any match at or above this threshold treated as a potential match under these Procedures.

Where no potential match is identified, no further action is to be taken.

Where a potential match is identified, further investigation will be undertaken by Education Business Services to determine whether the match is accurate. This process may involve comparing the information on the DFAT List with:

- a) other known information about the person/entity;
- b) other publicly available information;
- c) further information requested from the person or entity (where appropriate).

Where Education Business Services identifies reasonable grounds for concern that there is a potential match, consideration should be given to requesting that any tuition fee of concern be frozen and/or the processing of any application to study/enrol be put on hold.

Where after finalising its enquiries Education Business Services remains of the view that there are reasonable grounds for concern that there is a potential match, the evidence and findings to date of its enquiries will be sent to the University Solicitor to provide confidential advice to the PVC(R) or the CEO of Monash College for a Monash College student, about whether the person and activity is

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caught by a Sanctions Law and about what actions should be taken. The University Solicitor may make enquires of DFAT or the AFP when providing that advice.

The PVC(R) or CEO (as appropriate) will determine the action to be taken. Where after reviewing the available information, the PVC(R) or CEO reasonably believes that a Sanctions Law applies, the University or Monash College (as appropriate) will take appropriate action. The action may be:

- a) to consult with DFAT and seek a permit;
- b) to refuse or cancel the applicant's admission or student's enrolment;
- c) to refuse admission/enrolment unless the applicant/student can identify another sponsor that is not a Prohibited Person or Entity to pay his or her tuition fees;
- d) to freeze and report funds received to the AFP for advice;
- e) to place conditions on the applicant's/student's enrolment to facilitate compliance with the Sanctions Laws, including by restricting the ability to alter research direction without a further risk assessment;
- f) to inform the Risk and Compliance Unit of the conditions and request it monitor compliance with the conditions imposed and to escalate any new concerns to the University Solicitor for advice to the relevant decision maker.

Responsibility

see Section 7 - Responsibility

2. Review of Research Proposals

2.1. Overview

Each year, the University admits and enrolls students into its higher degree by research programs and coursework programs with a research component. Students work with their supervisor to identify a research project or proposal that will advance the state of knowledge in the field, for the public good. By definition research and research training should not involve contravention of the Sanctions Laws. In particular research and research training should not:

- a) provide technical assistance or training that relates to military activity, arms or related materiel to a sanctioned country or a Prohibited Person;
- b) provide technical assistance or training (or a scholarship for such training) if it assists with the manufacture, maintenance or use of Sanctioned Goods by an Iranian national, or for Iran, North Korea or Syria; or
- c) assist a WMD program.

(collectively referred to as **Prohibited Purposes**).

The University has adopted these Procedures as its exercise of reasonable precautions and due diligence to identify and respond to the possible provision of research training related to a Prohibited Purpose.

This process is administered by the relevant Faculty in conjunction with the OHS Unit and MIGR. Any compliance concern identified and not able to be resolved is referred to the University Solicitor to provide advice to the relevant Dean and the Chair of the GRC (as appropriate) for decision and to inform the PVC(R).

2.2. Process

On an ongoing basis, the Faculties (and relevant schools or departments) with the assistance of the OHS Unit will identify:

- a) laboratories and other University places where Sanctioned Goods are held by the University;

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- b) courses (including higher degrees by research) and units where training is provided in processes that have the potential to be Prohibited Purposes.

Measures for laboratories with Sanctioned Goods

The Faculties must (where necessary) incorporate additional rules into the induction and access requirements for a laboratory containing Sanctioned Goods, and identify student researchers for whom access to a laboratory could involve a breach of the Sanctions Laws.

Where it is identified that laboratory access for a student researcher may involve a compliance risk, the Faculty will consider whether any measures (including conditions imposed on the access) could be put in place to provide the student researcher with access to the laboratory in a manner that complies with the Sanctions Laws. Where the Faculty is concerned this may not be achieved, the matter must be referred to the University Solicitor to notify the PVC(R) and to advise the Dean on options to facilitate compliance with the Sanctions Laws. The Dean is responsible to make a decision upon receipt of this advice.

Measures for courses and units identified as having potential compliance risks

The Associate Dean (Research) or Associate Dean (Research Training) in the Faculty will assess whether the research project and scholarship application for each research student with a citizenship of a country targeted by the Sanctions Laws could involve a Prohibited Purpose. Where it is a MIGR-managed award, the Faculties will undertake this assessment in conjunction with MIGR.

The assessment process should involve consideration of:

- a) other information known about the applicant/student and the research (including information that may be held by the student's supervisor);
- b) further information requested from the applicant/student or supervisor (where appropriate);
- c) advice of an expert in the relevant field, to improve the understanding of the subject matter of the research; and
- d) other publicly available information.

Where the Faculty is seeking further guidance for its assessment in any particular case, it may seek advice of the University Solicitor, who may make enquiries of DFAT or the AFP when providing that advice.

Where the Faculty identifies reasonable grounds for concern that research involves a Prohibited Purpose, consideration should be given to putting on hold the processing of any application to study or placing interim conditions or limits on access to any affected laboratory or area of the University while the Faculty's further enquiries take place.

Where after making its enquiries the Faculty is concerned a research project or scholarship may involve a Prohibited Purpose, the Faculty will consider whether any measures (including changes to the student's research project or research methodology) could be put in place to facilitate compliance with the Sanctions Laws. Where grounds for concern are identified, the Faculty will work with the OHS Unit to ensure these measures are put in place, and for MIGR-managed awards will involve MIGR.

Where the Faculty considers measures are not available to facilitate compliance, the matter should be referred to the University Solicitor to advise the Dean or Chair of GRC on options to facilitate compliance with the Sanctions Laws, and inform the PVC(R). The Dean or Chair of GRC (whichever manages the award) is responsible to make a decision upon receipt of this advice.

Where after reviewing the available information the Dean or Chair of GRC reasonably believes that an applicant's/student's research involves a Prohibited Purpose, the University will take appropriate action. The action may be:

- a) to consult with DFAT and seek a permit;
- b) to put in place a risk management plan that may include conditions on enrolment;

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- c) to refuse the admission/enrolment unless the applicant/student amends the research project or research methodology to resolve the concerns;
- d) to refuse or cancel the applicant's/student's admission/enrolment;
- e) to report the concerns to DFAT or the AFP for advice;
- f) to inform the Risk and Compliance Unit of the risk management plan and request it monitor compliance with the plan and to escalate any new concerns to the University Solicitor for advice to the relevant decision maker.

Responsibility

see Section 7 - Responsibility

3. Monitoring

The Risk and Compliance Unit monitors changes to Sanctions Laws which may be relevant to the University.

Where changes to Sanctions Laws are identified (for example new sanctions against a state are imposed or the scope of an existing sanction changes or another State becomes the subject of sanctions), the Risk and Compliance Unit is responsible to communicate this to the relevant areas such as PVC(R), Education Business Services, MIGR, the Deans and the OHS Unit, and consider the need for revision of these Procedures. When considering changes in Sanctions Laws and changes to these Procedures, advice may be sought from the University Solicitor.

Responsibility

see Section 7 - Responsibility

4. Reporting and Continual Improvement

Through the annual Heads of Department Legal Compliance certification or through the Legal Compliance Officer process, the Risk and Compliance Unit will ask Education Business Services, OHS Unit, the Deans and the Chair of GRC to provide to the PVC(R) a bi-annual report of enquiries and their outcomes, incidents of non-compliance/breach made under these Procedures. The PVC(R) will provide a consolidated bi-annual report of these matters to the ERM Committee. The report may include learnings from enquiries and recommendations for improvements and changes to these Procedures.

The ERM Committee will consider and discuss matters related to Sanctions Laws on a six monthly basis (or more frequently if required). On receipt of a report from the PVC(R), the ERM Committee will discuss the report and adopt the recommendations (if any) as it considers appropriate.

All reports generated under these Procedures will be retained for auditing purposes.

Responsibility

see Section 7 - Responsibility

5. Breach of these Procedures

Where a person or University body considers that the Policy and these Procedures have not been complied with, that person or University body must report the relevant non-compliance to the PVC(R). The PVC(R) will investigate the alleged non-compliance and may seek the advice of the University Solicitor and other relevant stakeholders, such as the Dean or Chair of GRC as appropriate.

If the PVC(R) reasonably believes that the Policy and these Procedures have not been complied with, the University will take appropriate action. The action may be to:

- a) take appropriate steps to resolve or address any consequences of the non-compliance;
- b) require that the persons involved in the non-compliance undergo appropriate training to increase their awareness of the Policy and these Procedures;

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- c) report the concerns to DFAT or the AFP for advice; and
- d) make recommendations to the ERM Committee (refer to paragraph 4) regarding learnings and proposed improvements and changes to these Procedures.

Deliberate or reckless non-compliance may be dealt with by the University as a staff or student disciplinary issue and, in serious cases, may lead to termination of employment or candidature.

Responsibility

see Section 7 - Responsibility

6. Business Rules

Business rules may be developed to assist staff to implement these Procedures.

Responsibility

see Section 7 - Responsibility

7. Responsibility

ERM Committee
 Pro Vice-Chancellor (Research)
 Deans (including Associate Deans Research and Associate Deans Research Training)
 CEO, Monash College
 Graduate Research Committee
 Occupational Health and Safety Unit
 Risk and Compliance Unit
 Education Business Services
 University Solicitor's Office
 University staff
 Monash College staff

Responsibility for implementation	Pro Vice-Chancellor (Research) Enterprise Risk Management Committee University Staff
Status	New
Approval Body	Name: Council Meeting: 3/2013 Date: 08-May-2013 Agenda item: 9.4
Definitions	AFP: the Australian Federal Police; DFAT: the Australian Department of Foreign Affairs and Trade; DFAT List: the consolidated list of prohibited persons and entities published on the DFAT website; DIAC: the Australian Department of Immigration and Citizenship; ERM Committee: the Enterprise Risk Management Committee; PVC(R): the Pro Vice-Chancellor (Research), who is the legal compliance officer for the Policy and these Procedures; GRC: the Graduate Research Committee of MIGR; MIGR: the Monash Institute of Graduate Research;

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	<p>OHS Unit: the Occupational Health and Safety Unit;</p> <p>Prohibited Persons and/or Entities: individuals and/or entities whose names appear on the DFAT List;</p> <p>Prohibited Purpose: has the meaning set out in these Procedures;</p> <p>Program: the sanctions compliance program set out in the Policy and its supporting Procedures;</p>
Legislation Mandating Compliance	<p>Charter of United Nations Act 1945 (Cth), and Regulations</p> <p>Autonomous Sanctions Act 2011 (Cth), and Regulations</p> <p>Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 (Cth)</p>
Related Policies	
Related Documents	<p>Australian Sanctions Compliance Form</p> <p>Sanctioned Good Risk Management Plan</p>