

Monash University Policy

Policy Title	Sanctions Compliance Policy
Date Effective	08-May-2013
Review Date	08-May-2016
Policy Owner	Pro Vice-Chancellor (Research)
Category	Operational
Version Number	1.6
Content Enquiries	soloffice@monash.edu
Scope	<p>Sanctions Compliance Policy</p> <ul style="list-style-type: none"> • All campuses and research schools • Monash College • All staff • All affected students <p>Sanctions Compliance: Admission and Enrolment of Students and Provision of Education and Research Training Procedures</p> <ul style="list-style-type: none"> • All campuses and research schools • Monash College • All staff • All affected students <p>Sanctions Compliance: Research Collaboration and Research Services Procedures</p> <ul style="list-style-type: none"> • All Australian campuses and MSA • All Australian campus based staff and MSA
Purpose	This Policy provides a legal compliance framework to maintain and monitor compliance with Australia's Sanctions Laws. The purpose of the Policy is to facilitate and document for all staff the University's approach to compliance with the Sanctions Laws.
POLICY STATEMENT	

Background

The Sanctions Laws are punitive measures imposed by the Australian Government as a foreign policy response to situations of international concern. The purpose of the Sanctions Laws is to target persons, entities and governments most responsible for these situations.

The Sanctions Laws bind the University and entities over which the University exercises effective control. The Sanctions Laws impose sanctions against foreign states, individuals and entities. The sanctions are detailed in:

- a) [Charter of the United Nations Act 1945 \(Cth\)](#) and regulations made for each sanctioned country;
- b) the [Autonomous Sanctions Act 2011 \(Cth\)](#) and [Autonomous Sanctions Regulations 2011 \(Cth\)](#); and

- c) other autonomous sanctions imposed by other Australian legislation, regulations or ministerial orders with the force of law.

Under the Sanctions Laws, the University is prohibited from dealing with specific individuals and entities, or providing those individuals, entities and specified countries with access to specific types of training, services and resources. The training, services or resources targeted by the sanctions are those relevant to military purposes or the development of weapons of mass destruction, and for a small number of sanctioned countries also specified dual use goods (being resources that have a military purpose and also have a legitimate civilian purpose). The Sanctions Laws aim to ensure the University does not equip targeted individuals, entities or nations with these resources or the skills to utilise these resources.

The Sanctions Laws specify individuals and/or entities whose names appear on a consolidated proscribed persons list maintained by DFAT and found on its website.

The University must take reasonable precautions and exercise due diligence to prevent its conduct breaching the Sanctions Laws. There are instances where these obligations extend to the activities undertaken by the offshore campuses of the University. Failure to take this level of care to avoid contravention is a serious criminal offence. Activities dealt with by the Sanctions Laws of relevance to the University include:

- (a) Dealing in an asset with a Proscribed Person or Entity, for example, the transfer of an asset (or a right to an asset) to or from a Proscribed Person or Entity, this may include intangible assets such as intellectual property.
- (b) Conducting business with a Proscribed Person or Entity, which may include providing education or undertaking research.
- (c) Receipt of international funds transfers and other transactions in foreign currency with a Proscribed Person or Entity.

The Sanctions Laws also prohibit the University from providing services falling within specified categories. These sanctions apply generally rather than to specific individuals or entities. Service sanctions relevant to the University include the following:

- a) Regulations made under the Charter of the United Nations Act 1945 (Cth) which prohibit the provision of assistance or training in relation to the manufacture, maintenance or use of specified goods to sanctioned states and persons and entities in sanctioned states.
- b) The Charter of the United Nations (Iran Sanctions) Regulations 2010 (Cth) (**Iran Sanctions**) which prohibit the provision of technical assistance or training in relation to the production of items useful for Iran's nuclear program.
- c) The Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 (Cth) (**WMD Act**) which prohibits the provision of services (including education, training or research) where there is a reasonable belief or suspicion that the service will assist with a program for the development of weapons of mass destruction (**WMD program**).

In limited circumstances, the University may engage in an activity that would otherwise contravene the Sanctions Laws provided a permit from DFAT or the relevant authority has first been obtained.

The breadth, scope and drafting of the Sanctions Laws make it difficult to understand how in practice their obligations apply to the University's activities. Therefore the Procedures delineate areas where they may apply to the University, and the [Australian Sanctions Compliance Form](#) is a risk assessment tool designed to be used to assess any project/arrangement against compliance with the Sanctions Laws.

Statement

The Policy has the endorsement of the Monash University Council and the University's Vice-Chancellor and President as setting out the University's commitment to meet its obligations under the Sanctions Laws.

The Australian Government notes that the Sanctions Laws are to be applied so as "to minimise, to the extent possible, the impact on the general populations of the affected countries". With this in mind the University has identified Key Risk Activities, being usual University activities which may be affected by the Sanctions Laws. This Policy and the supporting procedures implement a responsive and targeted process, which aims to

embed compliance within the University's existing process and maintain awareness of the Sanctions Laws throughout the University.

The Policy:

- identifies the following Key Risk Activities:
 - student admission and enrolment;
 - receipt of fees, particularly tuition fees
 - the conduct of education, research training and research collaboration activities; and
 - access to and use of Sanctioned Goods held by the University,
- implements processes for each of the Key Risk Activities to facilitate compliance with the Sanctions Laws;
- requires that staff exercise reasonable precautions and due diligence to comply with the Sanctions Laws in all University activities, particularly the Key Risk Activities, and ensure that precautions are appropriate and adapted to a tertiary education environment having regard to the University's obligations to comply with other laws (including anti-discrimination and privacy laws) and the University's respect for academic freedom;
- implements proactive and responsive processes for monitoring and maintaining compliance with the Sanctions Laws; and
- requires on-going review to maintain the currency and effectiveness of the compliance program provided for in the Policy.

Supporting Procedures	Sanctions Compliance: Research Collaboration and Research Services Procedures Sanctions Compliance: Admission and enrolment of Students and Provision of Education and Research Training Procedures
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
Endorsement Body	Name: Senior Management Team Meeting: 10/2013 Date: 01-May-2013 Agenda item: n/a
Definitions	<p>Autonomous Sanctions Law: the Autonomous Sanctions Act 2011 (Cth) - http://www.austlii.edu.au/au/legis/cth/num_act/asa2011270/ and Autonomous Sanctions Regulations 2011 (Cth) - http://www.comlaw.gov.au/Details/F2012C00562</p> <p>ERM Committee: the Enterprise Risk Management Committee</p> <p>Key Risk Activity: an activity identified in the Policy Statement as an activity which forms part of the University's usual activities which may be affected by the Sanctions Laws</p> <p>Program: the sanctions compliance program set out in the Policy and its supporting procedures</p> <p>Sanctioned Goods: any goods defined as "export sanctioned goods" under Sanction Laws</p> <p>Sanctions Laws: the Charter of United Nations Act 1945 (Cth) -</p>

	<p> http://www.austlii.edu.au/au/legis/cth/consol_act/cotuna1945288/ - and Autonomous Sanctions Act 2011 (Cth) - http://www.austlii.edu.au/au/legis/cth/num_act/asa2011270/ - and the regulations - http://www.comlaw.gov.au/Details/F2012C00562 - made under them, together with all such other Acts, Regulations and Legislative instruments used by the Australian Government to give UN and autonomous sanctions the force of law. </p>
Legislation Mandating Compliance	<p> Charter of United Nations Act 1945 (Cth), and Regulations Autonomous Sanctions Act 2011 (Cth), and Regulations Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 (Cth) </p>
Related Policies	
Related Documents	<p> Australian Sanctions Compliance Form Sanctioned Good Risk Management Plan </p>