



# Case Studies

## Due Diligence, Risk Assessments and Management

These case studies are designed to assist universities to understand how they might develop and implement due diligence, risk assessments and management in accordance with this pillar of the Guidelines to Counter Foreign Interference in the Australian University Sector. The case studies are examples only. They provide a point of reference for decision makers to refer to as appropriate to their circumstances.

### Case one: Safeguarding national security

A professor of engineering and information technology at an Australian university specialises in swarm systems, at the university, the professor works on publicly funded swarm system projects for agricultural applications in Australia. The professor has been with the university for many years.

The university has conducted due diligence checks and considered:

- swarm systems is an area in which Australian research are world leading and is technology which is highly sought after by international partners and adversaries.
- swarm systems have dual-use in defence applications, but the university is unsure whether the technology is controlled for physical export or electronic supply from Australia.

The university has assessed this research as particularly high risk and has therefore taken steps to strengthen the risk mitigations put in place to protect the research, the university's reputation and Australia's national interest. Some of these controls include:

- the university's declaration of interest process, which requires all staff to declare secondary employment and associations with foreign governments
- previous employment and background checking of all participating staff and students
- strengthened and restricted access controls (including remote access) to research.

Recent media reporting indicated the professor is part of an overseas talent recruitment program and is currently a professor at a foreign military university. The School administration also notes the professor had not returned from an overseas trip as expected. The university conducts a due diligence assessment and considers:

- the foreign military university is based in a country that does not rank highly on transparency or democracy indices (the foreign country)
- open source checks of multiple reputable sources show the professor is a newly appointed head of School at a foreign military university and is part of a current foreign talent recruitment program
- the professor has not declared his new employment with the foreign military university, nor has he declared that he is now part of a foreign talent recruitment program.

After investigating, including discussing the issues with the professor, the university determines a breach has occurred. The university takes steps to cease the professor's employment due to the risk that the technology developed in the university might be used by a foreign military to compromise Australia's national security. This decision was strengthened because the professor failed to declare his outside employment.

## Case two: Declaring conflicts of interest

A professor at an Australian university specialising in advanced batteries for clean energy is approached by a foreign university to become an Adjunct Professor at their Centre for Renewable Energy. The foreign university offers to pay the professor to participate in research projects and deliver lectures and cover travel costs for three months of the year.

The university's secondary employment policy requires approval for all secondary employment with consideration of conflict of interests. In considering the professor's application for secondary employment the university considered:

- advanced batteries is an area in which the university is world leading and highly sought after by international partners
- advanced batteries has potential dual use, however the foreign university's Centre of Renewable Energy is leading a number of projects to apply advanced battery technology to clean energy
- engagement with Defence Export Controls to understand the export control status of the advanced battery technology and the instances where permits are required for physical exports and electronic supply of the technology beyond Australia
- that the foreign university is domiciled in a country that ranks highly on the transparency and democracy indices (the foreign country)
- that the foreign country is also world leading in advanced batteries research and collaboration with the foreign university would advance the university's position in advanced battery technology
- that proposed agreement with the foreign university contains comprehensive provisions for data sharing and disclosure
- that the professor's work with the foreign university would not adversely impact on the professor's primary work duties with the university
- strong contractual arrangements, including ownership and protection of associated intellectual property
- that the university has a robust conflict of interest policy, under which the professor is required to identify, declare and manage all conflicts of interest.



The university approved the professor to accept the appointment to Adjunct Professor at the foreign university after determining that the benefits of the professor's overseas work outweighed the relatively low risk that the university's right to publish, protect or commercialise the research could be compromised. The university was also confident that their policies would manage any potential conflicts of interest or commitments that could arise.

## Case three: Conducting enhanced due diligence

Australian state government officials encouraged an Australian university to consider a particular foreign venture capital fund (the VC fund) as a potential investor in that university's planned campus development works. The name of the fund and the location of meetings implied that the VC fund was controlled by a prestigious international university (the foreign university).

The Australian university referred the proposal to an external risk advisory firm for enhanced due diligence for several reasons:

- the foreign university has multiple investment arms and holdings under numerous names
- representatives of the VC fund did not provide adequate information to fully identify the fund and its precise corporate structure, personnel and investment strategies
- the foreign university presented a draft agreement for the Australian university. This draft agreement:
  - specified that the VC fund personnel would have ongoing access to the facilities built as part of the campus development
  - specified that the VC fund would have sole discretion to decide any third party contractors (for example, builders, electricians and plumbers) need to undertake the campus development
  - listed the name and address of the foreign university but was signed by the Vice-President of a separate investment holding
- the VC fund was domiciled in a country that does not rank highly on transparency or democracy indices.

Results of the enhanced due diligence enquiries showed that:

- the corporate structure, multiple aliases and address of the VC fund could not be categorically ascertained through publicly available sources
- the VC fund may have been controlled by a foreign government research institute which purports to focus on the integration of civil and military technology.

The university resolved not to pursue the funding arrangement due to a lack of transparency.

