

# Defence Trade Controls Compliance Policy

## Abstract

UTS is obliged to comply with Australia's export controls legislation. The Defence Trade Controls Compliance Policy (the policy) outlines these obligations and establishes a framework to ensure the university and its staff are compliant with the requirements of the *Defence Trade Controls Act 2012* (Cwlth).

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Approved by	Council Meeting 15/6, 25 November 2015 Resolution number COU/15-6/131	
	Latest amendment (minor administrative changes) approved under delegation 3.14.2 (see change history for details)	
Implementation Officer	Director, Research and Innovation Office	
Relevant to	All staff, researchers and all students	
Related documents	<a href="#">Australian Code for the Responsible Conduct of Research</a> <a href="#">Code of Conduct</a> <a href="#">Graduate Research and Supervision Policy</a> <a href="#">Defence Trade Controls Act site</a> (Staff Connect) <a href="#">Information Technology Security Vice-Chancellor's Directive</a> <a href="#">Research Ethics and Integrity Policy</a> <a href="#">Research Management Policy</a> <a href="#">Students Rights and Responsibilities Policy</a> <a href="#">Student Declaration</a> <a href="#">Student Rules</a>	

Legislation	<a href="#">Acts Interpretation Act 1901 (Cwlth)</a> <a href="#">Defence Trade Controls Act 2012 (Cwlth)</a> <a href="#">Defence Trade Controls Regulation 2013 (Cwlth)</a> <a href="#">Defence and Strategic Goods List (Cwlth)</a>
File number	UR15/1373
Superseded documents	None

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### 1. Purpose

The [Defence Trade Controls Act 2012 \(Cwlth\)](#) (the Act) strengthens Australia's export controls by regulating the supply, publication and brokering of goods, software and technology listed on the Defence and Strategic Goods List (DSGL).

The Act's penalty provisions apply to individuals and body corporates. This means that both the university and university staff are vulnerable to prosecution under the Act.

This policy aims to:

- a. outline the principles and procedures supporting the university's commitment to complying with the requirements of the Act, and
- b. address the responsibility of all university staff, students and researchers to comply with the Act.

### 2. Scope

This policy applies to all university staff, students and affiliates. This policy also applies to conjoint appointees and any other person undertaking research on behalf of the university.

### 3. Definitions

**Affiliates** is defined in the [Code of Conduct](#) and for the purposes of this policy, includes anyone undertaking research with or on behalf of UTS.

**Brokering** is when a person or organisation acts as an agent or intermediary in arranging the supply of DSGL goods, software and technology between two places

located outside Australia. For the activity to be considered brokering, the person must receive money or a non-cash benefit or advance their political, religious or ideological cause for arranging supply.

**Defence and Strategic Goods List (DSGL)** means the list that specifies the goods, software or technology that is regulated when exported, supplied, brokered or published.

**DSGL technology** means a thing that is technology or software as defined by the DSGL and within the scope of that list.

**First-Named Chief Investigator (FNCI)** as defined in the [Research Management Policy](#).

**Intangible means** – some examples of intangible means are email, fax, telephone, video conferencing; providing access to electronic files or presentations that contain DSGL Technology.

**Person** is defined in section 2C of the [Acts Interpretation Act 1901 \(Cwlth\)](#) to include a body politic or corporate as well as an individual. Therefore 'person' can mean an individual or an organisation.

**Research**, for the purposes of this policy, has the same meaning as used by both the [Australian Code for the Responsible Conduct of Research](#) (the Code) which defines research as 'original investigation undertaken to gain knowledge, insight and understanding'.

**Staff** is defined in the [Code of Conduct](#).

**Students** is defined in the [Student Rules](#).

**Supply** occurs when a person in Australia provides DSGL Technology to another person outside Australia. Examples of supply include via email or fax, or providing someone outside Australia with passwords to access controlled technology stored electronically.

#### **4. Policy principles**

This policy takes its principles from the UTS 2016–2020 [Research Strategy](#), which aims to increase the intensity, excellence, impact and reputation of UTS research so that the university develops a global reputation for research excellence.

In addition to producing quality research, the reputation of the university is dependent on the standard of its research management governance, policies and practices. This policy supports the implementation of the Research Strategy by instituting the university's commitment to compliance with the Act.

#### **5. Policy statements**

Australia's export control system for defence and dual-use goods aims to stop goods and technology that can be used in chemical, biological and nuclear weapons, or military goods and technology from getting into the wrong hands. Through international counter-proliferation and export control regimes, Australia works with other like-minded countries to identify and regulate sensitive military and dual-use technology, which are compiled in the DSGL.

The Act was introduced to regulate circumstances where a person supplies or provides access to DSGL technology from Australia to a place outside Australia via intangible means.

## **5.1 Commitment to exercise due diligence**

It is the responsibility of university staff, students and affiliates to ensure they are compliant with the requirements of the Act.

Each staff member who works with DSGL goods and technology must operate on the basis that compliance is an essential and integral aspect of their role, and not an optional process, or is the responsibility of another area or position.

### **5.1.1 Responsibility when working with DSGL technology**

It is the responsibility of university staff, students and affiliates to contact the Compliance Officer, Defence Trade Controls (Compliance Officer) in the Research Office when working with DSGL technology.

Within a research project, it is the responsibility of the First-Named Chief Investigator (FNCI) to ensure that the research within the project complies with this policy and to work with the Compliance Officer to ensure that all relevant approvals are obtained. Where there is uncertainty as to the DSGL status of research, the university staff member should contact the Compliance Officer for further guidance.

## **5.2 Permits**

If a university research activity contains DSGL technology, it may be necessary to apply for a permit from [Defence Export Controls \(DEC\)](#). University staff must contact the Compliance Officer in order to apply for a permit.

University staff, students and affiliates will not supply, publish or broker DSGL technology unless authorised to do so.

### **5.2.1 Permit reporting requirements**

DEC will issue permits to UTS. Permits will specify the names of recipients of DSGL technology ('authorised recipients'). University staff must ensure they only supply DSGL technology to those authorised recipients named in the permit.

The university must keep records of supplies made under the permit for five years.

Section 24 of the [Defence Trade Controls Regulation 2013 \(Cwlth\)](#) requires that the following information is recorded:

- a description of the DSGL technology supplied under the permit
- the permit number under which the DSGL technology is supplied
- the name of any person the DSGL technology was supplied to; and
- for each supply of DSGL technology under the permit, the date of supply; or, if the permit covers the supply for a period of time, the period or periods of time during which DSGL technology was supplied.

Some permits to supply DSGL technology may include conditions that impose additional recordkeeping requirements. It is important that university staff check the permit conditions carefully to ensure compliance with any additional conditions.

It should be noted that recordkeeping requirements relate only to the actual supplies of DSGL technology, not associated communication which may relate to the supply but do not actually constitute the supply itself.

### **5.3 Implementation of this Policy**

The Research Office will be the responsible office to provide briefings for university staff, students and affiliates, to assist them in understanding and complying with the Act.

The Research Office will also ensure that university staff are kept informed of any updates or changes to legislative requirements via the university's [Defence Trade Controls Act site](#) on Staff Connect, broadcast emails and/or workshops and information sessions.

Within a research project that includes DSGL technology, the FNCI is responsible for ensuring that the research within the project complies with this policy and for working with the Compliance Officer to ensure that all relevant approvals are obtained.

Furthermore, it is the responsibility of UTS staff and anyone undertaking research with or on behalf of UTS to check the [Defence Trade Controls Act site](#) on Staff Connect and official UTS email addresses regularly, and to attend any workshops and information sessions, as required.

For further information or advice, contact [DTC@uts.edu.au](mailto:DTC@uts.edu.au).

### **5.4 Compliance tools and resources**

The Research Office will be the responsible office to ensure that the compliance tools are relevant and up to date.

University staff are invited to provide feedback and to recommend improvements to the compliance regime, and will be given an opportunity at briefings and information sessions to make suggestions. Staff may also provide feedback directly to the Compliance Officer at any time.

#### **5.4.1 The framework**

The Defence Trade Controls Compliance Framework (the framework) establishes the university's commitment to compliance with the requirements of the Act.

The framework is managed by the Research Office and implemented by the Compliance Officer.

### **5.5 Communications**

#### **5.5.1 Communication with Defence Export Controls (DEC)**

The Compliance Officer will maintain regular contact with DEC for information and advice. The university will contact DEC about any proposed high-risk supply prior to making the supply.

Where DEC advises the university that a permit is required, the university will apply for the permit.

#### **5.5.2 Voluntary disclosure**

In the event of a breach of the Act by either the university or by a staff member, student or anyone undertaking research with or on behalf of UTS, the university will report the breach to the Compliance Officer upon discovery of the breach.

The Compliance Officer will immediately notify DEC of the breach.

## 5.6 Industry standards

The Research Office will be the responsible office to liaise with other universities, including the sharing of information, to ensure that its own processes and procedures are of a standard at least consistent with that of other universities. The liaison may include benchmarking activities.

## 5.7 Policy breaches

University staff and students are required to immediately contact the Compliance Officer where there has been any potential, likely or actual breach of compliance.

Breaches by staff of this policy are considered a failure to comply with the [Code of Conduct](#) and the [Research Ethics and Integrity Policy](#); and will be dealt with under [section 4.11](#), as a breach of the Code of Conduct. This includes the right of UTS to notify a relevant statutory authority and/or agency where breaches of relevant legislation may be evident.

Breaches by students of this policy are considered a failure to comply with the [Student Rights and Responsibilities Policy](#) and will be dealt with in accordance with the [Student Rules](#).

## 6. Roles and responsibilities

**Accountable Officer:** the Deputy Vice-Chancellor (Research) is responsible for managing compliance and initiating the review process (at least every five years).

**Implementation Officer:** Director, Research Office is the primary point of contact for advice on implementing and administering the policy; for establishing and maintaining the official file; for proposing amendments as required; and for managing the consultation process when the policy is due for review.

### Other positions and committees

**First-Named Chief Investigator (FNCI)** within a research project that includes DSGL technology, it is the responsibility of the FNCI to ensure that the research in their project complies with this policy and to work with the Compliance Officer to ensure that all relevant approvals are obtained.

**Research Office:** the Research Office will be the responsible office to provide briefings for university staff, students and affiliates, to assist them in understanding and complying with the Act. Section 5.3 covers the Research Office's implementation responsibilities under this policy.

**UTS staff and students engaged in research:** it is the responsibility of all staff and students engaged in research to be aware of the [Defence Trade Controls Act site](#) on Staff Connect, Defence Trade Control Act information sent in broadcast emails and to attend necessary workshops and information sessions on the implementation of the Act in their area of research.

The **UTS Compliance Officer, Defence Trade Controls (Compliance Officer)** is responsible for the day-to-day management of the policy and its associated Defence Trade Controls Framework as outlined in this policy.

## 7. Acknowledgements

There are no significant external documents and external organisations that should be acknowledged.

## 8. Version control and change history

<b>Effective date</b>	<b>Version</b>	<b>Approved by, resolution no. (date)</b>	<b>Amendment</b>
09/12/2015	1	Council, COU/15-6/131 (25/11/2015)	New policy.
19/02/2020	1.1	Under delegation 3.14.2	Minor updates, corrections and links changes.