

EXPORT CONTROL AND SANCTIONS PROCEDURE

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Procedure Author – Head of Research

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Changes and Reason for Changes – New Procedure



EXPORT CONTROL AND SANCTIONS PROCEDURE

INTRODUCTION

The University of the West of Scotland is a global university, engaged in international research collaborations and knowledge exchange. We recognise the benefits that this international engagement brings to the University, but we are also aware of the potential for strategic goods or sensitive technology to be misused. UK Export Control Legislation is in place to restrict the transfer of such goods and technology with the aim of preventing conflict, weapons of mass destruction (WMDs) proliferation, human rights abuse and countering terrorist threats. Sanctions regimes place restrictions on collaborations and economic activity with countries, organisations or individuals.

The objectives of this Procedure are:

- To help individuals to identify when export controls and sanctions might apply;
- To set out the procedure to be followed to ensure compliance with export control and sanctions legislation;
- To identify sources of support and guidance.

SCOPE OF PROCEDURE

This Procedure applies to all UWS staff, students, visiting academics and contractors. It is relevant to all researchers, particularly those in scientific and engineering disciplines.

EXPORT CONTROL

Export controls apply to the transfer of certain goods, technology, software and know-how (referred to as “controlled items”) outside of the UK. Transfer is interpreted broadly and applies to a range of activities carried out by the University such as:

- Research collaborations;
- Carrying out research on behalf of a commercial sponsor;
- Presenting at conferences or teaching overseas;
- Transferring physical items;
- Electronically transferring information or providing it verbally (e.g. over the phone);
- Travelling overseas carrying a laptop, tablet, USB stick or physical copies of information or data.

In exceptional circumstances, export controls can also apply to the transfer of controlled items within the UK. This will normally apply when the intended end-use of the items is connected to the creation of WMDs outside of the UK.

If the above criteria apply, it may be necessary to apply for an export control licence before transferring the items.

CONTROLLED ITEMS

Export controls apply to items with a clear **military application** and **dual-use items** i.e. items which have not been designed for military application but which could be used for this purpose such as chemical and biological agents.

The UK Strategic Export Control Lists, which are available on the UK Government's website, set out which items are controlled. Even items which are not included on these Lists may require a licence if they are intended for WMD purposes. This is known as **end-use** controls and will only apply if the individual making the transfer has been informed of, is aware, or suspects that this is how the items will be used.

EXEMPTIONS

Exemptions may apply to the transfer of controlled software and technology (but not goods) and a licence may not be required if:

- The information is already in the public domain (i.e. available online or in textbooks); or
- It contains only basic scientific research which is defined in article 18(3) of the Export Control Order 2008 as "experimental or theoretical work undertaken principally to acquire knowledge of fundamental principles, phenomena or observable facts and not primarily directed towards a specific practical aim or objective."

These exemptions do not apply to sanctions (covered later in this Procedure).

LICENCES

Export licences are managed by the Export Control Joint Unit. The most common type of licences used to transfer controlled items are:

- Open general export licences (OGELS); and
- Standard individual export licences (SIELS)

The 'OGEL and Goods Checker Tool' is available on the UK Government website and can help to establish which type of licence is required for a transfer. Applications for licences must be made through the Export Control Joint Unit's online system SPIRE.

Before applying for a licence, individuals should first speak to the Head of Research about the transfer that they intend to make. Once the proposed transfer has been approved by the Head of Research, individuals can then set up a user account on SPIRE and make their application. The UK Government publishes guidance called 'Using SPIRE to get an export licence' on its website. Advice is also available from Head of Research.

SANCTIONS

Sanctions are legal restrictions against countries, organisations or individuals ('sanctioned parties') designed to pressure them to change their behaviour. Sanctions normally take the form of arms embargoes or asset freezes on sanctioned parties. An asset freeze prohibits collaboration with or doing business with sanctioned parties.

Researchers are unlikely to have dealings with sanctioned parties but should still carry out checks at the start of any new collaboration to ensure that the proposed activity is not covered by sanctions. The UK Government publishes information about current sanctions regimes on its website. The Head of Research can provide advice on the application of sanctions and further advice can be obtained by contacting the Foreign, Commonwealth and Development Office's Sanctions Unit on sanctions@fcdo.gov.uk.

In some circumstances, it may be possible to obtain a licence to carry out activities, which would otherwise be prohibited by sanctions. Some licences can be applied for through SPIRE but others must be done by emailing tradesanctions@trade.gov.uk. Before applying for a licence, approval must first be given by the Head of Research.

To help determine whether export control restrictions apply, a flowchart is included in Annex 1.

RECORD KEEPING

Once a licence has been granted, the Principal Investigator must keep copies of the following documents and also issue a copy of each to the Head of Research who will ensure that a record is held centrally by Research Services:

- A copy of the licence application;
- Communications with the Export Control Joint Unit;
- The export licence;
- Details of the item(s) exported;
- Records of any transfers made under the licence (including dates);
- The name, contact details and country of the party who the item(s) were transferred to.

Records must be kept by Research Services for 6 years from the end of the year that the transfer took place or longer if required by the licence.

AUDITS

The Export Control Joint Unit or HMRC may carry out an audit to check that the conditions of a licence have been complied with and that licences have been applied for where required.

An annual self-audit will be undertaken by the Head of Research and logged electronically. The results of the annual internal audit will be reviewed by the Chair of the University Research and Enterprise Advisory Committee who shall consider if any changes to the procedure are necessary.

COMPLIANCE

Non-compliance with export control and sanctions legislation is a serious criminal offence, carrying significant financial penalties and custodial sentences of up to 10 years. It may also be treated as misconduct under the University's Disciplinary Procedure. All members of staff involved in research must ensure that they are familiar with their obligations under this Procedure and should seek advice from the Head of Research.

ADDITIONAL INFORMATION

For further assistance please contact researchservices@uws.ac.uk

Annex 1

Export Control Flowchart

