

# **University of Leeds**

## **Export Controls Policy**

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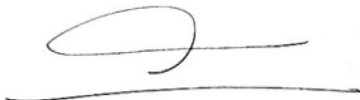
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## 1. Policy Statement

- 1.1 The University's strategy aims to place us at the centre of the global research and innovation community; and to deliver transformational fundamental and challenge-led research to advance knowledge and tackle major issues, to improve the future of our world. Increasingly, therefore, we are engaging in global partnerships and collaboration. While the great majority of these activities are not subject to UK regulatory or other restrictions, the University is committed to observing all UK export control regulations that apply to its work.
- 1.2 The UK export control regulations are not intended to restrict academic freedom and research but to support it. If sensitive technology falls into the wrong hands, it could undermine security or human rights, support terrorism or crime, or assist in the proliferation of Weapons of Mass Destruction (WMD). Any incidents could lead to more restrictive regulations. By ensuring that our University collaboration and exchange is conducted responsibly, we help to ensure that we consider any risks and no undue legal restrictions are placed on our activities.
- 1.3 Failure to comply with UK export controls would have significant consequences for the University and for individual researchers, potentially including loss of funding and inability to deliver on research grants and contracts, through to criminal convictions. On the other hand, demonstrating compliance provides assurance to our partners and collaborators, and strengthens the University's position in applying for research funding and participating in framework bids.
- 1.4 This policy sets out how to identify restricted activities and how to ensure compliance in a proportionate way. The University Secretary acting as the University's Export Control Director (ECD) has overall responsibility for this policy, and the Trusted Research Environment Manager acting as Export Control Manager (ECM) has operational responsibility.
- 1.5 All staff concerned should familiarise themselves with this policy and cooperate fully with the work of the ECD and ECM to put it into practice. Our compliance will not only avoid the risk of serious penalties and damage to our reputation, but it will help to ensure that we are able to continue confidently to expand our international horizons in a world increasingly marked by strategic technological competition.

**Signed:**



**Vice-Chancellor**

## OVERVIEW

### 2. Scope

2.1 This policy applies to all academic staff, researchers, post graduate researchers, undergraduate students, research support staff, research managers, support staff and administrators. Failure to comply will constitute a disciplinary and legal offence. UK government export control penalties range from up to 10 years' imprisonment for individual staff to unlimited fines for the University, compounded by reputational damage which could have a serious impact on the University's overseas research links and numbers of international students.

### 3. Controlled Exports/Transfers

3.1 University work potentially affected by export control regulations would usually, but not exclusively include post-graduate work with applied research that involves designated goods, software and technology included in the UK Strategic Export Control Lists. However, in some limited instances teaching may fall within scope. The Control Lists (which are regularly updated) comprise a wide range of items. These items fall into the following categories:

- a) **Dual use items:** items intended for civil use but which could potentially be used for military, WMD or security-related purposes. Extensive, detailed technical criteria that define dual-use items are set out in the UK's Dual-Use Lists. The main relevant disciplines are: nuclear engineering; viruses, pathogens, vaccines; chemicals with toxic properties; high strength materials; high specification electronics, computers, and telecommunications; automation; cryptography; optics and sonar; navigation; submersibles; aerospace; and space.
- b) **Military items:** any item is subject to control if it is specially designed or modified (however minor the modification) for military use; and
- c) **WMD end-use:** any item is subject to control if you have been informed, you know or you have reason to suspect that it is or may be intended to be used in a WMD programme outside the UK. This applies not only to exports/transfers outside the UK but also to teaching and research in the UK. These controls do not apply if there is only a theoretical possibility that items could be used in a WMD programme. But staff should be alert to any grounds to suspect that a recipient may divert an item for use in a WMD programme.

3.2 'Items', as used in this policy, includes the following:

- a) **Goods:** equipment, components, materials, samples, chemicals and biological agents that meet the definitions of dual-use, military or WMD end-use as set out above;
- b) **Technology:** within export control legislation 'technology' is a defined term. Most technology controls apply to information that is necessary for the development, production or use of controlled goods. Some technology controls apply to specific information as described in the lists. Technology controls related to nuclear goods have a broader scope. Controlled technology can take any form including data, research papers, designs, manuals, formulae and prototypes; and

- c) **Software:** that is specially designed for the development, production or use of controlled goods.

### 3.3 The controls apply to the following activities:

- a) **Physical exports** out of the UK of controlled items, on a permanent or temporary basis, including very small quantities. Such exports include hand carrying controlled software or technology on paper or on a laptop, mobile phone or memory device when travelling;
- b) **Electronic transfers** out of the UK of controlled software and technology by any means including email, video conference, teaching overseas and online learning, downloading or accessing of documents by a person located overseas, and by telephone if information is communicated so as to achieve substantially the same result as if the recipient had read it. Controlled software and technology should be stored under restricted conditions that securely prevents unauthorised access, using end-to-end encryption and identity and access management;
- c) **Exports and Transfers within or outside the UK** of any item subject to WMD end-use controls as described above;
- d) **US-controlled items:** a US licence may be required to transfer US-controlled items to anyone in the University who is a foreign or dual national, or to anyone outside the University, in the UK or overseas; and
- e) **Sanctions:** financial sanctions prohibit the transfer of any funds or economic resources directly or indirectly to or for the benefit of a sanctioned individual or organisation. Trade sanctions restrict the supply of certain items, primarily military equipment, to sanctioned countries. US sanctions extend in some case to supplying any US-origin or US-controlled item to sanctions targets in the UK and worldwide.

## 4. Exemptions

4.1 **In the Public Domain:** controls do not apply to software or technology that is *available without restriction upon further dissemination (no account being taken of restrictions arising solely from copyright)*. The main considerations are:

- a) the software or technology must be available to anyone, for example on a website, at an exhibition or at a conference open to the public;
- b) the exemption applies if the software or technology is available to anyone in return for payment, for example in a subscription journal;
- c) research intended to be published is not exempt until after it is published. Sending unpublished research work overseas or carrying material, for example in the course of teaching, research collaboration or for peer review, is not exempt; and
- d) the act of publication is not itself subject to licensing unless the technology is otherwise restricted, for example if it is subject to the Official Secrets Act.

4.2 **Basic Scientific Research:** controls do not apply to technology that is *experimental or theoretical*

*work undertaken principally to acquire knowledge of the fundamental principles or phenomena or observable facts and not primarily directed towards a specific practical aim or objective*". The main considerations are:

- a) this exemption applies to research work that is not directed towards a specific short-term practical aim nor addresses a specific technical problem;
- b) the technology developed in the course of a research project is likely to be exempt if the sole intended output is a published article in a peer reviewed scientific journal;
- c) Technology Readiness Levels (TRL) 1-2 are generally considered to be exempt while TRL 3 is borderline and should be considered case-by-case; and
- d) this exemption does not apply to software.

**4.3 Patent Applications:** the controls do not apply to the minimum technical information required to support a patent application. This exemption does not apply to nuclear technology.

## **5. US Export Controls**

5.1 US legal restrictions apply to certain items in the UK as follows:

- a) US-origin military or dual-use items that have been imported into the UK directly or indirectly from the US;
- b) items made or developed outside the US that incorporate any US-origin military content or over 25% (in most cases) by value US-origin dual-use content; and
- c) items made or developed outside the US using US-controlled technology.

5.2 Although US law provides for a wide range of exemptions, a US export licence may be required to transfer such items not only out of the UK but also within the UK, including to a foreign or dual national within the University (staff, students or visitors). Failure to comply with US requirements can result in severe fines. But at the same time, due care must be taken to ensure compliance with UK anti-discrimination law if US restrictions prohibit access to an item by a foreign or dual national.

5.3 Some US sanctions prohibit the supply of all US-origin items (for example US-made laboratory equipment) to US sanctions targets. Such targets include some organisations and their staff operating in the UK and some foreign research institutions (notably in China) that may collaborate with UK universities, including sending staff or students to the UK. The use of US-origin items in working with such persons is not expressly prohibited but care needs to be taken to avoid giving them ownership or possession of such items.

## **6. Awareness, Guidance and Training**

6.1 The ECM is responsible for maintaining up to date information on the regulations. The ECM shall attend relevant external courses as appropriate.

6.2 The ECM shall review periodically which members of staff require awareness and/or training on the

regulations and shall arrange appropriate awareness-raising materials/events and training, as required, including in induction presentations for new staff. The ECM shall maintain a record of all such training.

- 6.3 The ECM shall provide an appropriate level of information on the University's website, including this policy.
- 6.4 The ECD and ECM may consider further steps to raise awareness and to embed export controls compliance in the University procedures. Examples of such steps may include: appointing Contact Points in Schools to assist researchers with questions and liaison with the ECM; putting export control issues on Schools' risk registers to ensure that they are included in routine reviews of activities; using the Staff Review Development Scheme (SRDS) process to assess whether relevant staff require training and how effectively they are implementing this policy; ensuring staff most concerned attend relevant external courses; or establishing a Steering Committee of certain relevant staff (such as Heads of Schools, Directors of Research, Directors of Graduate Studies and Research Managers) to help coordinate the implementation and eventual development of this policy.

## **PROCEDURES**

### **7. Prospective Staff and Students: Academic Technology Approval Scheme (ATAS)**

- 7.1 The risk of a transfer of sensitive technology that might be used in a WMD programme occurring in the course of teaching or research in the UK is primarily managed by the UK government through the ATAS. Students, researchers and staff from certain countries applying to study or work in the UK at postgraduate level in relevant disciplines require an ATAS certificate before they will be granted a visa. Compliance with ATAS at the University is managed by Human Resources International and Student teams.
- 7.2 A new ATAS certificate may be required if a student or researcher changes course or project while they are in the UK.

### **8. Export Control Assessments**

- 8.1 Certain proposed research projects (including collaborative research, consultancy and equipment access), Material Transfer Agreements (MTAs), intellectual property licensing and education involving persons located outside of the UK shall be subject to consideration of whether the work will involve items subject to export controls. In order to focus attention on activities most liable to be subject to export controls, such consideration shall apply to activities involving the following criteria:
- a) a relevant discipline as listed in 3.1(a) above; and
  - b) an export/transfer out of the UK and/or US export controls;
  - c) an export/transfer of a controlled item on the UK Strategic Control Lists.
- 8.2 The ECM in consultation with the PI/proposer, shall determine whether export controls are in fact applicable, following the process in the flowchart in Appendix A. In cases of doubt, an enquiry shall

be submitted to the Department for International Trade by the ECM.

- 8.3 In addition, ECM shall routinely assess all other proposals that may involve an export/transfer out of the UK and, whenever they judge that there is a risk that export controls may be applicable, the PI/proposer shall provide all information requested by the ECM.
- 8.4 All items that are identified as subject to export controls shall be flagged as such in documents, records and labels associated with the items.
- 8.5 Research contracts and MTAs involving work with controlled items, or that might involve such items, shall include enhanced contractual provisions.
- 8.6 With respect to US controls, all concerned must be alert to the risk of the receipt of an item that is subject to US export controls and require that external partners inform them of whether any item they propose to send to the University is US-controlled. No activities of any sort related to items restricted by US laws may proceed without the prior written consent of the ECD. If any US export controls may be applicable, the ECM shall consult with those concerned, if appropriate seek external expert advice, and prepare a compliance plan for the approval of the ECD.
- 8.7 Records of all export control assessments and decisions shall be stored securely by the ECM for an indefinite period.

## 9. Export licence applications and use

- 9.1 If an export licence is required, the ECM shall determine, on the basis of the export control classification of the specific item(s) and destination(s) concerned, which type of licence is required and shall register (in the case of Open General licences) or apply (in the case of Individual licences). The PI/proposer shall provide the ECM with all the details related to the proposed export/transfer that the ECM may require.
- 9.2 When an export licence is obtained, the ECM shall provide a copy to the PI or proposer and agree with them on how the conditions of the licence will be fulfilled, in particular:
- a) **in all cases:** ensure that the items to be transferred, their destination country and recipients are covered by the licence;
  - b) **for physical exports:** ensure that the licence title and number are referenced on the shipping documents and on the export declaration completed by the freight forwarder;
  - c) **for electronic transfers:** ensure that the UK export control classification number and the export licence title and number are referenced on the documents and any covering emails; and
  - d) **for international travel:** any staff or student proposing to carry a controlled item overseas or to access controlled technology while they are overseas shall consult the ECM who shall ensure that the appropriate export licences are in place. This may include also obtaining an export licence from the destination country if it is intended to carry a controlled item back from there to the UK.



9.3 Records of all such exports and transfers, as required by the licence, shall be stored in a drive shared by the PI/proposer and ECM for at least four years. The ECM shall verify periodically that this is being done correctly.

## 10. Audits and Breaches

10.1 If the University obtains an open export licence, or an individual export licence for the transfer of technology, it will become subject to external audits by the Department for International Trade to check compliance with the conditions of the licence(s) and that no controlled items are being exported without a licence.

10.2 If an external or internal audit finds any failures of compliance, or if these come to light in the course of routine business, the ECD and ECM shall be responsible for immediate investigation and corrective action, and submitting a voluntary disclosure to HM Revenue and Customs (for breaches of export controls or trade sanctions) and to the Office for Financial Sanctions Implementation (for breaches of financial sanctions), seeking appropriate external advice as appropriate.

10.3 Self-reported non-compliances or those identified in the course of normal business would be escalated in the following fashion:

- o Researcher or Head of School will notify the ECM and ECD
- o ECM and ECD would notify the Head of the relevant school if not done already by the researcher
- o ECM and ECD will notify the Export Control Steering Committee
- o ECD will notify the University Executive

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## Appendix A: Export Controls flowchart



UNIVERSITY OF LEEDS

This is a flowchart to help you assess whether Export Controls apply to your work. For more detailed information, or if you are in doubt about whether Export Controls apply, please go to the UoL [Export Controls](#) website, or contact [trustedresearch@leeds.ac.uk](mailto:trustedresearch@leeds.ac.uk) for advice

Am I exporting as part of my research or teaching activities?

-Consider any participants abroad including funders and collaborators

-Transfer or disclosure of tangible or intangible materials or information by any means to recipients located outside of the UK?

