



House of Commons
Foreign Affairs Committee

A cautious embrace: defending democracy in an age of autocracies: Government Response to the Committee's Second Report of Session 2019

**First Special Report of Session
2019–21**

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The Foreign Affairs Committee

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First Special Report

On 5 November 2019, the Foreign Affairs Committee published its Second Report of Session 2019, [A cautious embrace: defending democracy in an age of autocracies](#) (HC 109). The Government's response was received on 17 February 2020 and is appended to this report.

Appendix: Government Response

1. Given the weight of the evidence publicly available, we were surprised that the FCO's submission to this inquiry did not identify academia as being a distinct area at risk of influence by autocracies. We recommend that the FCO inform the Committee, in confidence if necessary, of its assessment of the extent of the problem. (Paragraph 16)

The FCO recognises academia as an area at risk of foreign interference. The FCO is working with the Department for Education (DfE), Department for Business, Energy and Industrial Strategy (BEIS), other relevant government departments and the academic sector directly, to identify and mitigate these risks.

The Government has examined a range of open-source evidence, as well as information received privately through our direct links with universities and academics, which have raised concerns and prompted a range of detailed follow up action by Government Departments. For example, in the UK we are aware of cases such as autocratic state actors putting pressure on universities and academics to avoid certain topics or self-censor their research or course content. There are also reports of pressure or influence exerted on overseas students. We are also aware of autocratic state actors targeting research collaboration. Any such activities are unacceptable and the Government has accelerated areas of work to understand and respond to the problem.

Our universities are international at their core and they rightly offer a warm welcome to overseas students and the valuable contribution they make. The Government encourages universities to collaborate with international partners—the best research is done through international collaboration and it is precisely this interconnectedness that ensures the UK higher education sector remains world-class.

However, there is a risk that our collaborative culture of academic research and innovation could be exploited by state or state-linked actors which do not respect fundamental rights and freedoms, or whose strategic intent is hostile to UK interests. This is why the Government has published Trusted Research and will continue to develop and promote this advice and guidance to the sector.

The protection of academic freedom and freedom of speech lies at the heart of our higher education system; the Government is clear that any attempts to interfere with these core values will not be tolerated. If institutions or academics feel they are subject to foreign interference, we encourage them to inform Government, so that we can offer our advice and support.

2. The FCO's role in advising universities on the potential threats to academia from autocracies is non-existent. There is no evidence that it has considered the threat from

autocracies to academic freedom, which underpins the quality of UK higher education, nor engaged sufficiently with other departments to develop a co-ordinated response. We believe that it is vital for the FCO to take the lead across Government on this issue, given that foreign influence falls directly within the Department's remit. (Paragraph 22)

The FCO plays a key role in advising universities on the potential threats to academia from autocracies. The FCO has engaged with the sector in a number of ways, proactively organising events with Universities UK (UUK), the largest higher education sector body, and advising and assisting particular institutions and academics on specific cases. Our network of diplomatic posts around the world proactively supports UK higher education institutions as they pursue collaboration and partnerships.

The FCO was consulted throughout the formation of the International Education Strategy (IES) and continues to be a member of the IES cross-government steering committee.

The FCO hosted a UUK-led event in June 2019, which brought together a group of Pro-Vice Chancellors International to discuss autonomy, security and risk in the higher education sector. They were briefed by the FCO's Chief Scientific Adviser (CSA), FCO China Department and the Centre for the Protection of National Infrastructure (CPNI). The FCO's CSA had a further discussion with the group in December 2019 to consider the challenges the sector was facing in addressing these risks. The Trusted Research guidance, produced by CPNI and the National Cyber Security Centre (NCSC), was launched with the support of BEIS and the FCO's CSA at the UUK Annual Conference in September 2019, which brought together Vice Chancellors of UK universities.

The FCO considers foreign threats to academic freedom by drawing on research and analysis from inside and outside government, and discussions with like-minded partners. The FCO engages regularly with other Government departments on these issues. In particular, the FCO advises on threats from different countries and how best to engage with those countries.

DfE and BEIS lead for the Government on advising universities as they jointly hold responsibility for universities. DfE, and the regulator for higher education, the Office for Students (OfS), are between them responsible for university students, teaching staff, overall institutional financial sustainability and corporate governance. BEIS, supported by its arms-length bodies, UK Research and Innovation (UKRI) and the Intellectual Property Office (IPO), oversee research policy, including HMG-funded and privately-funded research, university researchers and support staff. Both departments regularly engage with the higher education sector, including on responding to threats of foreign interference.

The institutional autonomy of our universities is one of the features of the UK higher education system that helps to ensure the sector's world-class status. The Government is there to support them to ensure they remain credible as a trusted independent education, research and innovation sector, both domestically and internationally.

3. We are disappointed that the FCO has not made detailed assessments about how the UK and its universities should respond to foreign influence in UK academia, and at its failure to engage directly with counterparts in the US, Australia or elsewhere to share best practice. We recommend that the Government and universities develop together a strategy to address the challenges posed by autocracies to UK universities.

As a starting point, the Government should examine mounting evidence of foreign influence in UK universities to fully understand the extent of the problem. This strategy should examine the extent to which market incentives may serve to undermine academic freedom in the UK. We recommend that the Government share with us in confidence the details of this strategy by Autumn 2020. (Paragraph 23)

DfE and BEIS, given their responsibility for universities and research, are leading work with the sector to support it should they encounter foreign interference. The FCO and other relevant departments are actively supporting DfE and BEIS with this.

The FCO engages regularly with international partners, including counterparts in the US and Australia, on the threats to academia. As the Minister for Asia and the Pacific explained in the oral evidence sessions, we already have a “growing and constructive dialogue with a range of countries at official level”, being conducted in a private forum. The FCO uses its network of Posts, as well as bilateral and multilateral meetings in London and overseas at senior-official level, to raise the issue of interference in academia with trusted partners. We have found other countries keen to cooperate and share best practice. We will continue to engage with a range of international partners on these issues.

In light of the evolving threat of foreign interference to the higher education sector's core values, infrastructure and research collaborations, the Government has asked Universities UK to accelerate and expand their efforts—and the task and finish group they have established—to address the full range of risks. Government will continue to support this sector-led approach by providing specialist advice and expertise. We consider that this sector-led approach, supported by government, is the most effective strategy to address this challenge.

Universities are autonomous institutions that make their own decisions on collaboration and investment. As independent institutions, they have their own processes in place to decide how appropriate it is to work with, or accept financial contributions from, outside organisations (including those from overseas).

Academic freedom and freedom of speech are core foundational principles which, together with institutional autonomy, have facilitated the development of our world-class higher education sector. These vital principles are protected through a combination of law and regulation, including through the Higher Education and Research Act 2017. We expect universities to uphold academic freedom and freedom of speech, in the UK and elsewhere, even when confronted by interference from foreign states.

Universities will be well aware of the possible risks associated with dependence on a single source of funding, whether that is from a single organisation or from a single nation. Recruiting international students on a sustainable basis is one way in which universities can protect themselves from these risks.

The International Education Strategy—in which the Government set out its ambition to increase the number of international students in the UK to 600,000—is underpinned by measures to support the sector to attract students from all over the globe, including the recently announced Graduate Route, which will enable institutions to recruit on a sustainable basis.

4. We further recommend that a Senior Responsible Owner (SRO) is appointed to coordinate the FCO's response to threats to academic freedom. The Government should nominate a single point of contact to both gather evidence from, and provide advice to, academic institutions on the political, diplomatic and legal implications of accepting funding and pursuing collaboration with institutions based in non-democratic states. We recommend that the Government appoints a cross-departmental Whitehall champion for academic freedom to coordinate the different agencies involved in monitoring and responding to foreign influence. (Paragraph 24)

In the FCO, geographical directors with country-specific expertise work closely with thematic directors who have cross-cutting technical expertise, on issues such as cyber threats or national security, to provide advice to Ministers and contribute to the cross-Whitehall policy mechanisms. The FCO Chief Scientific Adviser also plays an important role as a bridge between the FCO and the research sector. The relevant FCO officials work with colleagues across Whitehall and contribute to cross-Whitehall work streams.

Director General for Higher and Further Education at the DfE, Paul Kett, has the role of cross-Whitehall SRO, coordinating the Government's efforts on maintaining security in the sector from foreign interference. We consider he is fulfilling the role of cross-departmental Whitehall champion recommended by the Committee. The FCO, along with the security agencies, other government departments and the sector, will continue to play a critical role in supporting his work.

We can see the merits of a single point of contact to advise universities. Higher education providers already contact government for advice on collaborations and investment, but we recognise universities' desire for an improved process for seeking advice and information on security related issues from different Government departments. We have also acknowledged UUK's suggestion for a single point of contact in government; we will continue to work with the sector to identify and implement the optimal solution.

5. We recommend that the Government engages in dialogue with Australia, Canada, New Zealand and the US to explore ways to protect universities from attempts by autocracies to use their financial muscle to leverage influence through the withdrawal of funding. This could take place through existing structures such as the Commonwealth. (Paragraph 25)

The Government is aware that some autocratic states have been known to use the threat of financial leverage to achieve their goals. The FCO and relevant departments engage regularly with international partners, including the EU and its member states, Australia, Canada, New Zealand and the United States, across a range of issues, including interference by autocratic states, across all of the areas identified in this report as a concern. We have effective channels at all levels, including senior official and ministerial levels, and a number of bilateral and multilateral cooperation mechanisms including E3 (with France and Germany), Five Eyes (US, Canada, Australia, New Zealand) and other groupings.

As previously outlined, the International Education Strategy aims to support the sector to recruit students from all over the globe. Greater diversification of student recruitment will help to mitigate the risk of any over-reliance of students from particular countries.

We acknowledge the Committee's suggestion to engage the Commonwealth. Commonwealth organisations, such as the Association of Commonwealth Universities

(ACU), are dedicated to building a better world through higher education. The ACU has more than 500 members spread across 50 countries in the Commonwealth, facilitating international collaboration to support the long-term vitality of universities.

6. We welcome the Government's use and promotion of 'Trusted Research' and academic technology approval schemes (ATAS) to protect UK universities from intellectual theft that may arise from academic collaboration with universities from autocratic states. *The Government should continue to support such schemes and provide up-to-date guidance to universities on the political, diplomatic and legal implications of accepting funding and pursuing collaboration with institutions based in non-democratic states.* (Paragraph 26)

Relevant Government departments, including FCO, DfE, BEIS as well as CPNI and NCSC, continue to engage with the university and research sector through Trusted Research. Trusted Research provides awareness, advice and guidance for both academics and senior leaders in universities and research institutions. The Government will continue its strategic engagement with the sector in partnership with UUK, and other organisations representing academia and research. We want to ensure that universities understand how to protect themselves from the full range of risks that come with international collaboration, as well as reaping the many benefits this can bring.

University leaders have welcomed the Trusted Research approach and the co-creation of guidance with the sector. The Government plans to continue this approach, and extend it to future work to raise awareness and embed good practice across academia. In addition to the existing Trusted Research products, we plan to produce bespoke advice for academics who travel and work overseas (including to non-democratic states) along with advice for industry partners who work frequently with the research community.

The Government considers the Academic Technology Approval Scheme (ATAS) a valuable measure in preventing the Intangible Transfer of Technology (ITT) to programmes developing or furthering Weapons of Mass Destruction (WMD) and their means of delivery. The FCO regularly reviews the Scheme to ensure it remains a valid and effective means to protect sensitive intellectual property from misappropriation or theft.

7. After considerable delay, the FCO has now established that it is legally possible for the UK unilaterally to impose sanctions on individuals and organisations while still a member of the European Union, However, the Minister was not able to tell us how the FCO plans to use these so-called 'Magnitsky powers', the criteria on which individuals will be selected for sanctions, or the date on which the FCO would lay the relevant Statutory Instrument before Parliament—a process which will now be further delayed by the 2019 General Election. The FCO has been far too slow to make use of this important foreign-policy tool in countering the abuse of human rights by countries such as China and Russia, and more broadly in support of the rules-based international system. (Paragraph 30)

8. *In its response to this report, the FCO should explain why it has not yet used Magnitsky-style sanctions in response to ongoing repression by the state authorities in Hong Kong and Xinjiang, what plans it has to do so, and how far these plans have progressed. It should also state how it is seeking to coordinate with the EU when designing and imposing sanctions on individuals and organisations connected to autocratic*

regimes. The FCO should further set out in the Statutory Instrument to be laid before Parliament the criteria for determining which individuals and organisations should be subject to UK Government sanctions. (Paragraph 31)

The Foreign Secretary has announced that we will establish a UK autonomous global human rights sanctions regime once we leave the European Union. A global human rights sanctions regime would allow us to respond to serious human rights violations or abuses anywhere in the world. It is not intended to target individual countries, but will aim to deter individuals and entities from committing serious human rights violations or abuses and hold those that do accountable.

The Sanctions Act gives the UK powers to impose autonomous sanctions; however, secondary legislation is required to establish the structures and processes by which the Act will operate. To implement human rights sanctions therefore requires a new piece of secondary legislation—officials are currently working to finalise the drafting of this legislation, which will then be laid before Parliament. The legislation will set out the criteria for determining which individuals and entities should be subject to the measures. This work has been complex and it is important to take the time to get it right.

Our first designations under a new human rights sanctions regime can only be imposed after the secondary legislation is made. It is not appropriate to confirm who may be designated under the sanctions regime before the designations are in place. To do this could reduce the impact of the designations, for example, by increasing the risk of asset flight. All sanctions designations will need to meet the legal tests as set out in the Sanctions Act. This will include ensuring sanctions designations are underpinned by robust evidence that can be defended in court.

EU sanctions will continue to apply in the UK during the Implementation Period. We are always ready to work with partners where our objectives align, and we continue to believe that sanctions are most effective when implemented collectively.

9. We reiterate our recommendation that the Government appoint a Senior Responsible Official with personal accountability to the National Security Council for devising and implementing sanctions policy. This is a necessary step to ensure the cross-departmental coherence, and greater effectiveness, of the UK's sanctions policy. (Paragraph 33)

As indicated in the Government's response to the Committee's Seventeenth Report of Session 2017–19, 'Fragmented and incoherent: the UK's sanctions policy', there are already SROs within the FCO providing oversight of sanctions policy, including through the Head of the FCO Sanctions Unit, the Director of Multilateral Policy, the Political Director, the Minister for Europe and the Americas and the Minister for the United Nations. There is also a Director-level cross-Whitehall board chaired by the FCO, which brings together Government departments to ensure coherence and coordination.

In addition, as set out above, where sanctions are incorporated within broader Government strategies, there are already SROs providing overall leadership, oversight and coordination across Government. As the Government continues to develop the structures required to manage sanctions policy and implementation for after EU exit, the Government will consider the Committee's recommendation to create an SRO role within the FCO to be accountable for sanctions policy and implementation.

10. *We recommend that the Government acts with much greater urgency in establishing a power to block listings in the UK on national security grounds—a potentially crucial tool in limiting the influence and reach of autocracies in the UK. We expect the Government to update our successor Committee on its progress no later than May 2020.* (Paragraph 36)

The Government is investigating the possibility of introducing a power to block a listing on national security grounds. This includes consideration as to the existing legislative framework, and the impact this power could have on UK financial markets. The Government will explore what role the National Security Council and its secretariat, as well as bodies such as the Financial Conduct Authority (FCA), would play in the use of any such power, and how to formalise links with relevant departments and bodies should such a power be introduced. The Government plans to update the Foreign Affairs and Treasury Committees on the progress of this work in due course.

11. *In its response to this report, the Government should provide us with its assessment of the reputational risks to the UK being an active participant in the Hong Kong judiciary. We recommend that the Government coordinates its response to the Hong Kong crisis with the governments of Australia, Canada and New Zealand as judiciaries represented in the Hong Kong Court of Final Appeal. We further recommend that the Government extends the right of abode to Hong Kong residents who are British Nationals (Overseas) passport holders as a means of reassurance that the UK cares about its nationals.* (Paragraph 41)

The report suggests that there could be a reputational risk to the UK if the Government inadvertently appears complicit in supporting and participating in a system that is undermining the rule of law (para 39). The rule of law underpins One Country, Two Systems and Hong Kong's future prosperity and success. Despite recent pressure on aspects of Hong Kong's high degree of autonomy, the UK continues to believe that Hong Kong's world-class, independent judiciary, plays an essential role in underpinning the rule of law in Hong Kong. Participation of foreign judges in Hong Kong's Court of Final Appeal, as per paragraph 68 of Annex I of the Sino-British Joint Declaration, strengthens Hong Kong's independent judiciary. The UK will continue to keep this assessment under review, noting that these judges are themselves independent, and therefore make their own decisions on participation. The UK is co-ordinating closely with partners, including Australia, Canada and New Zealand among others, on our response to the situation in Hong Kong.

The report recommends that the Government extends the right of abode to Hong Kong residents who are British National (Overseas) passport holders (para 41). The UK takes seriously its support for British Nationals (Overseas) and the rights that status confers upon them. The Foreign Secretary commented in Parliament on 26 September 2019 that the status of British Nationals (Overseas) was a part of the delicate balance in negotiations that led to the Sino-British Joint Declaration. The UK continues to believe that it would not be right to change the legal status of British Nationals (Overseas). The UK believes that the best solution for Hong Kong, and the British Nationals (Overseas) passport holders that live there, is full respect for the rights and freedoms set out in the Joint Declaration.

12. *We recommend that the FCO steps up its work with the Interpol National Central Bureau (NCB) and its counterparts in democratic states within Interpol to collectively encourage reform of the red notice system to protect it from abuse by autocracies.*
(Paragraph 45)

Interpol is a crucial organisation for the UK in facilitating international police to police co-operation between 194 member countries. The Government takes any allegation of misuse of Interpol's systems very seriously.

The Home Office, which leads the UK's engagement with Interpol, is strongly supportive of Interpol's efforts to maintain the integrity of its processes and system of Red Notices. This includes proactive support for Interpol's Notices and Diffusions Taskforce which reviews alerts circulated on its systems and ensures compliance with Article 3 of its Constitution which forbids the organisation to undertake any intervention or activities of a political, military, religious or racial character. In November 2019, the UK seconded a senior lawyer to Interpol to further increase our support to the work of the Taskforce in preventing abuse of Interpol systems. The UK also co-operates with member countries to ensure Interpol is well governed and delivers its core mission to support international law enforcement co-operation through rules and rights-based security cooperation.

Interpol has an independent and impartial body, the Commission for the Control of Files (CCF) which is responsible for ensuring that the processing of personal data conforms to the Constitution and rules for data processing. The CCF processes requests from individuals for access to, and removal of, data held on them and resolves disputes as to the legitimacy of notices.