

# Industry as a strategic and operational risk in WIL programs

Presented by

Dr Craig Cameron

Senior Lecturer, Griffith University

Corporate Counsel, Dental Services Network

# WIL Context in Australia

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- Competition: 41+ universities + 100+ higher education providers offering degrees (**strategic risk**)
- Expansion of WIL is an explicit goal of most Australian universities (**strategic risk**)
- There is no WIL without industry
  - » Industry is represented by entities (**host organisations**) that host students in the workplace (**WIL placement**)
- A contract generally defines the relationship between the host organisation, university and/or students (known as **WIL agreement**)

## Strategic risks associated with the host organisation

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<b>Strategic Risk</b>	<b>Factor</b>
The demand for WIL placements by the university exceeds the supply of WIL placements to the university	University demand for WIL placements
A potential or current host organisation does not offer a WIL placement(s)	Relationship management

# Operational risks associated with the host organisation

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<b>Operational Risk</b>	<b>Factor</b>
The host organisation imposes their own terms on the university and/or student, without amendment or negotiation	Bargaining power of the host organisation
The host organisation does not understand the purpose of the WIL program	Sophistication of the host organisation
The host organisation does not understand the legal obligations and consequences of provisions it proposes in the WIL agreement	Sophistication of the host organisation

# Risk acceptance by universities

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- Host Organisation (HO) retains the rights to intellectual property generated by the student
- HO is an inadvertent employer of the student
- HO takes disciplinary action or requires the university to take disciplinary action against the student
- The risk is not insured or underinsured by university or HO
- The university indemnifies HO for losses incurred in connection with the student's involvement during a WIL placement
- The university provides assurances about student competence, character and conduct to HO

# Key risk management lessons – Industry

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- You have the bargaining power:
  - » “We need them more than they need us”
- Use the contract to shift legal risk to the university, particularly with respect to indemnities and warranties
- Make sure that the workplace arrangement is part of a WIL program, and in writing.

# Key risk management lessons – universities

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- Appreciate that risk management involves identifying and balancing various types of risk
- A potential imbalance between managing strategic and legal risks: securing industry involvement but not appreciating the attendant legal risks
- Need for WIL practitioners to improve legal literacy
- WIL practitioners should collaborate with university lawyers in risk management
- Potential for contract collaboration among universities

## Further resources and questions

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- Craig Cameron ([craig.cameron@griffith.edu.au](mailto:craig.cameron@griffith.edu.au)): Require research support, free consultation or to share your story – I will travel!
- **Survey research – Legal risk and risk management**
  - » Cameron, C. and Klopper, C. (2015) University lawyers: a study of legal risk, risk management and role in work integrated learning programmes. *Journal of Higher Education Policy and Management*, 37(3), 344-360
- **Comprehensive table of legal risks + ERM**
  - » Cameron, C. (in press) The strategic and legal risks of work-integrated learning: An enterprise risk management perspective. *Asia-Pacific Journal of Cooperative Education*
- **Contract risk**
  - » Cameron, C. (in press) The contract risks to universities of work-integrated learning programs. *Australian Business Law Review*