

ESOS Framework and CRICOS Registration Compliance Policy

1.0 Purpose

To provide ensure Bendigo Kangan Institute's (BKIs) commitment to compliance with the Education Services for Overseas Students (ESOS) legislative framework and its CRICOS registration.

Scope

This policy applies to:

- International students at BKI on a student visa, including international students under the age of 18.
- BKI personnel involved in the delivery of training and assessment, and the administration of records for international students, including ELICOS courses.
- Any training and assessment delivered to international students via third-party arrangements on behalf of BKI.
- Recruiters and Education agents who recruit international students on behalf of BKI
- Providers of marketing and documentation prepared for international students on behalf of BKI.

This policy does not apply to:

- Transnational training and assessment services that are delivered offshore, or to students who are studying entirely online.
- International students who do not hold a student visa.

This policy does not detail BKIs approach to Critical Incident Reporting/Management or International Student Transfers (refer to specific BKI policy and/or procedure).

3.0 References

Education Services for Overseas Students Act 2000

National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code 2018)

ESOS Regulations

ELICOS Standards

Standards for Registered Training Organisations (RTOs) 2015

Working with Children Act 2005

Working with Children Check, Victoria

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4.0 Policy Statement

This policy provides an overview of BKIs commitment to the key legislative and regulatory obligations of the ESOS framework. Procedures have been documented to cover the details of the ESOS framework and to provide clear instruction on how the policy is to be implemented at BKI and other teaching locations.

4.1 CRICOS Registration Requirements

As a registered training organisation (RTO) under the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) delivering vocational education and training courses to international students on a student visa, BKI must demonstrate at all times that it meets the requirements of the ESOS Framework. This includes the requirements of the *ESOS Act* and the *National Code*.

Additional courses must be listed on the BKI Scope of Registration before an application is able to be made for CRICOS registration.

The key obligations of CRICOS-registered providers are as follows;

- Compliance with the ESOS Act, Regulations, Standards, Codes of Practice and ELICOS Standards relating to International Students.
- Cooperation with ASQA including compliance with general directions and compliance monitoring activity.
- Enter into compliant written agreements with students
- Keep all prescribed records of students
- Maintain and publish agent details
- Give information to the Secretary about accepted students (through PRISMS)
- Refund in accordance with the Refund Specification
- Pay registration charges and levies on time

Compliance with ESOS framework legislative and regulatory obligations is ensured through requiring that BKI employees and contractors are aware of the requirements of the ESOS framework by providing them with policies and procedures that detail what commitments must be in order to maintain CRICOS registration.

4.2 ELICOS – English Language Intensive Courses for Overseas Students

Where BKI delivers courses in English-Language instruction to international students, BKI must comply with all the requirements of the *ELICOS Standards*. The delivery, outcomes, expectations, and pedagogical differences between English-language instruction to international students and other VET courses means that BKI must be registered as an ELICOS provider in order to deliver to ELICOS students.

BKI must adhere to all requirements of the *ELICOS Standards* in order to continue providing ELICOS courses. BKI ensures that all regulatory requirements are met in the monitoring of attendance and academic performance of ELICOS students. This includes:

- A record of each student's attendance on a daily basis ELICOS students are required to attend at least 80% of classes in order to achieve satisfactory attendance requirements.

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- Ensuring that they have processes in place to monitor attendance as well as a strategy to identify and assist those students who are absent for more than 5 consecutive days without approval or those whose attendance is at risk of falling below the 80% requirement.
- Monitoring Student Progression through their course as well as having strategies in place to identify and assist students at risk of failing to meet course progression requirements.
- The provision of written notices when the student fails to meet attendance or academic progress.
- The reporting via PRISMS of any changes in the student's enrolment/status that may have implications for their student visa

4.3 Provider Registration International Student Management System (PRISMS)

BKI is obliged to meet all reporting requirements to the national ESOS agency via PRISMS in accordance with the ESOS Act and ESOS regulations. Required information includes, but is not limited to:

- Information about accepted students including:
 - Name, starting day and expected duration for which the student is accepted;
 - Any termination of an accepted student's studies;
 - Any changes in identity or duration of a course;
 - Any breach by an accepted student of a condition of their student visa as soon as practicable after the breach occurs
 - International student transfers to and from BKI
 - The details of education agents and with whom BKI has a written agreement.

4.4 Marketing to International Students

BKI must ensure that the marketing and promotion of its courses and education services in connection with overseas students including via an education agent is not false or misleading and is consistent with Australian Consumer Law.

BKI must not provide false or misleading information in its advertising and recruitment material.

4.5 Recruitment, Enrolment and Attendance

BKI ensures that the correct requirements for enrolment and pre-course commencement for new and continuing international students are completed in a timely and efficient manner.

BKI provides intending students with comprehensive and current information in relation to all the requirements for an overseas student's acceptance into a particular course of study.

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All enrolment information required by BKI's legislative and regulatory obligations are entered and updated on PRISMS.

BKI must enter into a written agreement with the overseas student, signed or otherwise accepted by the student, concurrently with or prior to accepting payment of tuition or materials fees. The written agreement must meet the requirements of the ESOS Act and National Code.

Students under the age of 18 must have the written agreement signed by either their parents or legal guardian.

4.6 Attendance

BKI complies with all related regulatory requirements in the monitoring of attendance and academic performance for international students, including ELICOS students.

Attendance is monitored in order to ensure that the student will be in a position to complete the course and its requirements in the timeframe listed on the Confirmation of Enrolment.

BKI has documented policies and procedures in place that identify, notify and assist overseas students at risk of not meeting course progress or attendance requirements.

If an ESOS agency requires BKI to monitor overseas student attendance as a condition of registration, the minimum attendance requirement is attending 80% of the scheduled contact hours of the course.

4.7 Reporting Unsatisfactory Course Progress or Attendance.

Where BKI has assessed an overseas student as not meeting the requirements of attendance or course progress, they must provide the student with a written notice as soon as practicable.

The notice needs to contain the following;

- Confirmation that BKI intends to report the overseas student for unsatisfactory course progress or attendance to the Department of Home Affairs.
- Details of the unsatisfactory course progression or attendance.
- Provides the details of BKI's complaints and appeals process.

4.8 Deferment, Suspension or Cancellation of enrolment

All BKI staff must follow the correct process to facilitate international students' requests for deferring or suspending courses and to correctly process a cancellation of an enrolment.

BKI is able to defer or suspend a student's enrolment if it believes that there are genuine compassionate grounds for doing so.

BKI may suspend or cancel a student's enrolment due to gross misbehaviour and/or a significant breach of BKI's Code of Student Behaviour. Other reasons for suspension or cancellation of enrolment include, non-payment of fees, breaching of attendance or course progress requirements.

Where BKI initiates the process of cancelling or suspending a student's enrolment, the student is notified in writing. The written notice contains details of the student's appeal rights as well as informing the student of the need to seek advice from the Department of Home Affairs in relation to the potential impact on their student visa.

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All student requests for deferment or suspension of studies are assessed in accordance with BKIs procedures and are recorded internally and with PRISMS where required.

4.9 Assessment of Student Performance

Records of achievement for all international students must be recorded after each assessment item and forwarded to the International Coordinator to update the student's file.

BKI must have clear methods of assessing satisfactory course completion and competency. International students are subject to the same policy and process for assessing satisfactory course progress as all other students at BKIs as per the *Training and Assessment Policy*.

4.10 Intervention Strategy

Where an international student has been identified as not meeting course progress requirements, BKI has a documented intervention strategy.

Intervention strategies may include, but are not limited to:

- Academic skills support
- Additional English support
- Additional tutoring/study group
- Increased monitoring
- Personal Counselling
- Placement in a more appropriate class

All correspondence and documentary evidence of the interventions implemented are kept on the student's file.

4.11 Unsatisfactory Progress and Appeals

Students are allowed a grace period of 20 working days from the date they receive a letter of notification regarding unsatisfactory progress to access BKIs appeals, complaints and grievances processes.

If the student chooses to access the complaints and appeals process BKI will commence assessment of the appeal or complaint within 10 days of receiving it and the outcome of the process must be communicated to the student as soon as practicable.

BKI ensures that the student is given the opportunity to formally present their case and be accompanied by a support person at any meetings.

BKI ensures that the student is given a written notice of the outcome of the appeal including detailed reasons for the outcome.

If BKI does not finalise a student's appeal or complaint in the student's favour they will provide the student with the information necessary for the student to request or lodge an appeal or complaint with an external appeals or complaints handling body.

If an external appeal is decided in a student's favour BKI will immediately implement the decision or recommendations made and advise the student of the implementation. If however the decision is made to uphold BKI's decision and terminate the student's enrolment then BKI must notify the Department of Education and the Department of Home Affairs via PRISMS.

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4.12 Education Agents

All education agents must enter into a written agreement with BKI in order to formally represent the institute in accordance with the National Code.

The details of each education agent who has entered into a written agreement with BKI are entered and maintained in PRISMS.

BKI ensures education agents have up to date and accurate information regarding course offerings, do not engage in false or misleading conduct, declares and avoids conflicts of interest, observes appropriate levels of confidentiality and transparency in dealing with students, and acts honestly in good faith.

4.13 Younger International Students

All BKI staff must hold a Working with Children's Check (WWCC) and a Criminal Record Check (if required).

BKI is required to comply with all requirements regarding any additional State or Commonwealth legislation and regulation regarding, but is not limited to:

- Reporting of child abuse
- Child Safe Standards
- Minimum age or year level requirements
- Supplying appropriate information on who to contact in emergency situations, and
- How to seek assistance and report any incidents involving sexual, physical or other abuse

If an international student is under the age of 18, the student's welfare must be maintained for the duration of their stay in Australia as a student visa condition. To maintain welfare, international students can either:

- Stay in Australia with a 'nominated guardian' approved by the Department of Home Affairs, who can be the international student's parent, person who has legal custody, or an eligible relative who is aged over 21 and is of good character; or
- Stay in accommodation, support and general welfare arrangements that have been approved by the international student's registered provider. In this case, the registered provider will issue a Confirmation of Appropriate Accommodation and Welfare (CAAW) letter.

If BKI is unable to contact a student and had concerns for a student's welfare they must make all reasonable attempts to locate the student including but not limited to contacting police and other Commonwealth and State agencies as required.

BKI's responsibility for an international student's welfare continues even if a younger overseas student is suspended or their enrolment cancelled.

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5.0 Roles and Responsibilities

Role	Responsibilities
Chief Academic Officer	Ensures Compliance with regulatory and legislative requirements pursuant to the ESOS framework and CRICOS registration.
Manager Academic Governance	Ensures policies, procedures and processes are in place so that compliance is ongoing and continuous improvement is maintained by internal audit and governance activities.
Manager Teaching Departments	Ensures that international student's needs are met in relation to enrolment and course progression and ongoing welfare in accordance with the students visa requirements.
Trainers and Assessors	Trainers and Assessors are responsible for monitoring individual international student progression and reporting satisfactory or unsatisfactory progression to the Manager of the respective teaching department.

6.0 Definitions

Word/Term	Definition
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students; the official Australian Government database of all courses offered to people studying in Australia on student visas and the education providers offering those courses.
Department of Education	The Commonwealth Department of Education, which is responsible for administering the PRISMS and CRICOS databases.
Education Agent	A person, either within or outside Australia, who represents or acts on behalf of BKI in dealing with international students or prospective international students.
ELICOS Course	An ELICOS course is a course of education or training that is: <ul style="list-style-type: none"> • Solely or predominantly of English language instruction; and • Provided, or intended to be provided, to an international student as defined in section 5 of the ESOS Act.
ESOS Act	<i>Education Services for Overseas Students Act 2000</i> and associated legislation; sets out the legal framework governing delivery of education to international students studying in Australia on a student visa.

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Word/Term	Definition
International student	A student at BKI with an Australian student visa, holding a valid CoE in a CRICOS registered course.
National Code	National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students; a set of nationally consistent standards that governs the protection of international students and delivery of courses to those students by providers registered on CRICOS.
PRISMS	Provider Registration and International Students Management System; the Australian Government database that provides Australian education providers with Confirmation of Enrolment facilities required for compliance with the ESOS legislation.
WWC Check	A Working with Children Check is required for BKI staff, contractors and volunteers as part of their recruitment requirements. The Child Safe Standards and the National Principals regarding Child Safety are adhered to by BKI as a Child Safe Organisation.

7.0 Supporting Procedures

Doc ID	Procedure name
	International Student Transfer Policy
	Critical Incident Management Policy
	Deferment, Suspension or Cancellation of Enrolment of International Students
	Managing Changes to International Delivery Registration
	Release and Transfer between Providers for International Students Procedure.
	Monitoring Course Program for International Students
	Critical Incident Management Procedure
	Enrolment and Pre-Course Commencement Requirements for International Students
	Monitoring Attendance of International ELICOS Students
	Enrolment Procedure – International (on shore and off shore)

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8.0 Version Control and Change History

Ver.	Approved By	Approval Date	Issue Date	Description of Change	Next Scheduled Review Date	Document Owner
1	Board of Studies	30/7/19	2/8/19	Original	30/6/2021	Chief Academic Officer

9.0 KI Policy and Procedure Portal

Category	Key Words