Non-Government Schools Not-For-Profit Good Governance Principle 8 – Manage risk

Good governance arrangements ensure school proprietors and boards[1] manage their affairs with suitable oversight and accountability, and are critical for meeting not-for-profit (NFP) obligations under section 83C of the *Education Act 1990 (NSW)* (the Act).

To help schools develop and maintain good governance practices, the Non-Government Schools Not-for-Profit Advisory Committee has developed a set of Guiding Principles for Good Governance.

Good Governance Principle 8: Manage risk states that:

> 'Boards should have appropriate risk management and internal control systems in place. These should be reviewed regularly to ensure their effectiveness.'

Managing risk is an essential part of school governance. Having effective risk management processes in place allows school boards to improve decision making, appropriately plan, make financially sound decisions and minimise the risk of not meeting their legal obligations, including a school's obligation to operate on a NFP basis under the Act.

The key elements of this principle, outlined in the following sections, are:

- Embedding oversight of risk into board operations.
- Encouraging board members to seek information about managing risk.
- Regular review of the school's risk management framework.

Embedding oversight of risk into board operations

School boards are responsible for ensuring their schools meet all legal and compliance obligations. Embedding oversight of risk into the board's operations is an important step in ensuring board decisions do not trigger non-compliance with the school's obligation to operate on a NFP basis under the Act. An important first step to embedding risk management into board operations is to adopt a suitable risk management framework. Australian Risk Management Standard AS/ISO 31000:2018 is a robust risk management framework implemented by many public and private organisations and is a useful tool to assist in managing all types of risks, including financial, safety, project and operational risks, etc.

Risk management framework

A risk management framework provides school boards with a structured, clear approach to identifying, assessing and managing risk. It outlines clear duties and expectations for responsible persons and establishes processes to assess and manage risk. It should be easily accessible

1 'Proprietors and Boards' refers to all members of the governing body of the school sometimes also referred to as 'directors'. In these documents the governing body is referred to as the 'school board' or 'board members'.

by board members, senior school executive staff and other stakeholders and should be reviewed at least annually.

Key factors included in a risk management framework are:

- risk identification and setting a risk appetite
- risk measurement and assessment
- risk mitigation
- risk reporting and monitoring
- timing and process for reviewing (at least annually).

The risk framework should be used by the school board when making key decisions to ensure those decisions do not place the school or their students at risk.

In order to meet registration and accreditation requirements under the Act, school boards must have policies and procedures in place that manage risk. Details on these risk management requirements can be found in the NSW Education and Standards Authority (NESA) Registered and Accredited Individual Non-government Schools (NSW) Manual.

Establishing and maintaining conflict of interest and related party transaction policies and registers is an important part of managing risk in relation to complying with legal requirements. **Good Governance Principle 4: Timely and full disclosures** provides detailed information on how boards can meet these obligations.

Encouraging board members to seek information about managing risk

"The role of the board is to understand the organisation's risk, to make decisions based on this understanding and to oversee a framework that manages risk on an ongoing basis."[2] Seeking information about managing risk will help board members effectively identify and address that risk. Board members should:

- Expand their governance skills by learning more about risk and its management.
- At a minimum, one school board member should have experience, qualifications and/or skills in risk management. Independent and expert advice should be sought if none of the current board members have that expertise.
- Be aware of the internal controls in place at the school to minimise risk, including the risk of fraud or mismanagement. These controls could include policies, appropriate delegations or other forms of IT based checks and balances.
- Seek independent and expert advice on how to manage risk to the school.

The Association of Independent Schools of NSW (AISNSW) has modules on risk management that Board members could be encouraged to complete as part of their induction.

The Australian Charities and Not-for-profits Commission (ACNC) also includes managing risk as part of their Governance Standards.

Professional learning in risk management is also a NESA requirement.

Regular review of the school's risk management framework

Completing regular reviews of the risk management framework allows boards to assess the effectiveness of their risk management processes within the current environment and adjust where required.

2 https://aicd.companydirectors.com.au/resources/not-for-profit-resources/not-for-profit-governance-principles/principle-5-risk-management

Timing of reviewing risk management processes depends on the operational needs of the school. At minimum, an annual review is recommended. The board may also review the processes if a significant change or a new major risk arises at the school.

The review can be completed by the board itself or through an audit and risk committee[3]. It is recommended that external independent advice is sought to inform the review. Importantly, individuals responsible for the review should be appropriately experienced, qualified and/or skilled.

Case studies

Case study A – Effective risk management

Cherrytree School is considering purchasing land next to the school, where it plans to build new facilities to support increases in enrolments. The land is owned by a relative of one of the board members, making it a related party transaction.

The Board uses the risk management framework to identify and manage the risks associated with the purchase. The framework allows the Board to highlight the following:

- The related party transaction increases the risk of the school being non-compliant with its obligation to operate on a NFP basis under the Act. To mitigate the risk, it is recommended that:
    - Details of the relationship are recorded in the school's related party transaction register.
    - The Board member related to the land owner excuses themselves from the decision-making process and all correspondence/reports on the matter
    - Independent valuations of the land are obtained to confirm market value.
    - An independent financial viability assessment of the plans to expand the school is completed; this includes analysis of enrolment projections, competing school sites in the area, future land releases, likely land purchase, construction and any other associated costs and considerations.
    - Identify all development issues (council zoning limits etc) and establish plans to mitigate any risks.

The Board practiced appropriate risk management as they used a sound risk management framework and processes to identify and consider the risks associated with the purchase.

The Board (minus the related party) can now make an informed decision, having identified and mitigated or resolved all financial and other risks associated with the purchase.

3 A Risk Committee is a sub committee of the school board that has the principle responsibility for overseeing implementation of risk management processes and policies at the school. Membership should include at least one person with experience, qualifications and/or skills in risk management.

Case study B – Ineffective risk management

Southside School has a new board, as 5 of the 6 previous members retired recently. The new Board has been serving for approximately 12 months. The Board decides to hire a contractor for ongoing maintenance work and building upgrades around the school. At a board meeting the Board discusses:

- What works need to be done.
- The budget available.
- When the works need to completed.

During the meeting one board member suggests a friend, who runs a local company, to complete the work. The board member obtains a quote from their friend and presents it at the next meeting. The board members all vote to proceed with appointing this company to complete the works and signs a 5 year contract with the company. No conflict of interest or related party declarations are made.

While the board has an established risk management framework and procurement policy, these are not considered in the discussion. No risks are considered, specifically reputational or operational risks, for example student safety while the works are completed, and whether the contractor is qualified and insured. All board members are yet to complete any risk management training.

The Board **did not** effectively manage risk, as it failed to:

- Use its risk management framework to identify and manage the risks associated with the contract (including risks associated with related party transactions).
- Identify how its decisions increased the risk of not meeting the school's obligation to operate on a NFP basis under the Act.
- Ensure board members completed training in risk management and understood their obligations.
- Assess and address other risks (not directly related to NFP operation) such as:
    - student safety while the works were completed
    - reputation and stakeholder risks
    - whether the contractor is qualified and has appropriate insurances.

Failing to manage their risk meant the school also faced compliance action for breaching their NFP obligations with the related party transaction.

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