

EDITORIAL

We are heading into the home stretch for 2011. What a year it has been. There seems to be so many new topics of interest for school business and administrative staff it's difficult to keep up.

Here are a couple of hot topics that come to mind:

- National harmonisation of OHS laws
- iPads in the classroom
- Social media forums, changing the way we communicate
- Submissions to Government funding review panel

If you haven't been drawn into a discussion on any of these topics you may be leading a sheltered life. Information on a couple of these topics is included in this newsletter.

Happy reading!

David Dannock and Ross Congleton – Editors

Quote for this edition-

“God, grant me the serenity to accept the things I cannot change, the courage to change the things I can, and the wisdom to know the difference”.

by Reinhold Niebuhr

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UPDATE YOUR DETAILS

Please update your email address on the ASBA web site, as it is the only way we will contact you.

Please check the ASBA web site (www.asba.asn.au) and update your email address.

Alternatively, please contact
Graham Williams
gwilliams5@bigpond.com

PRESIDENT'S REPORT

Colleagues,

As we work through this final Term of our year we can reflect on the achievements for the year and look forward to some rest and recreation before embarking of another busy year in the life of a School. Budgets are set for 2012 (or will be shortly for most of us) fee increases locked in, staff employed and students enrolled.

The BER projects which provided us with a one off funding opportunity for our schools are mostly complete. I wish to thank all of those schools who offered an article on their projects for ASBA's national magazine, *The Associate*. Unfortunately, the timeline given to me was quite short, however for those who did send an early article these will appear in *The Associate* covering projects around Australia. There are some amazing stories. I think you would all agree that Independent Schools Victoria administered these projects very successfully on our behalf and their support was invaluable.

The New Zealand conference was a resounding success as I'm sure those of you who attended will attest. We had more than 100 delegates from Victoria, which was great to see. I think everyone enjoyed the relaxed hospitality of the Kiwis and the opportunities a New Zealand destination offered. The speakers, program and venues were outstanding.

Our joint Professional Development day with CEBA was held at the NAB Docklands Centre on 9 September. The facility was very innovative and provoked food for thought on the way workspaces can inspire and motivate those who work within it. The day was excellent, interesting speakers and a great attendance from 77 of our colleagues.

Our next function is the Christmas Function on **25 November 2011** to be held at Trinity Grammar, Kew. Please contact your regional convenor to arrange a table to attend what will be a great night of food, fellowship and entertainment.

We are currently planning for 2012, our AGM will be held in March and our State Conference on 10 and 11 May.

I urge you to read the great articles in this edition of the newsletter produced by David Dannock and Ross Congleton. Social media is certainly the hot topic!

I would like to take this opportunity to thank the Victorian ASBA Committee for their hard work this year and I wish you all well for a wonderful, relaxing and well earned break.

Best wishes

Geraldine Ilott
President, ASBA (Vic)

RECENT MEMBER MOVEMENTS

We wish to advise the following recent member movements:

NEW MEMBERS

Name	Title	School	Region
Ricky Neilson	Maintenance Manager	Ivanhoe Girls Grammar School	4
John Mulhall	Bursar	Melbourne Rudolph Steiner School	2
Rosemary Scarlett	Business Manager	Hume Anglican Grammar School	1
Paul Velton	Business Manager	Marist-Sion College	9
Luke Veli	Business Finance Manager	Isik College	1
Mohammad Hallak	Business Manager	Al-Taqwa College	1
Tommy Nguyen	Accounts Manager	Al-Taqwa College	1
Peter Watson	Assist Finance Manager	Catholic College Bendigo	1
Rob Lancaster	Business Manager	St Hilda's College	1
Carly Whatley	Finance Manager	Marcellin College	1
John Angelico	Maintenance Team Leader	John Paul College	6

Name	Title	School	Region
Brenton Middlemiss	Finance Manager	Catholic College Bendigo	1
Glenn Wright	Business Manager	Victory Lutheran College	1
Brad Sims	Business Manager	Braemar College	1
Belinda Holmes	Bursar	Victory Christian College	1
Belinda Collins	Accountant	Kilvington Grammar School	5
Val Marinelli	Director of Finance	Xavier College	3
Teresa Carra	Accountant	MacKillop Secondary College	1

ASBA PROFESSIONAL DEVELOPMENT OPPORTUNITY

Chartered Secretaries Australia

CSA will be offering a two day "intensive" course, which consists of:

- Governance Essentials (half day),
- Analysing and Treating Risk (half day), and
- Practical on-the-job Skills for Company Secretaries (full day).

These three programs, once the online exam is complete, equate to four units towards the six unit Certificate in Governance Practice program.

This course has been tailored for schools and would be of benefit to all those who undertake a Company Secretary and/or Governance role, but in particular would benefit those who are relatively new to the role of Business Manager in an Independent School.

Please contact Sh'vorn Sumner on (03) 9620-2488 or email: shvorn.sumner@csaust.com for more detail.

Simon Oldham
ASBA (Vic) Committee - Professional Development

RISK MANAGEMENT FOR SCHOOLS

Back to Basics

What is Risk?

Risk is defined as the chance of something happening that has the potential to affect the achievement of a school's objectives, goals, targets and priorities. Risk is assessed in terms of consequence, likelihood and control effectiveness.

Risk includes anything that may affect the school achieving its objectives and encompasses:

- The possibility of positive outcomes not happening (risk as an opportunity loss);
- The possibility of adverse outcomes happening (risk as hazard creating loss or harm);
- The potential that actual results will not equal anticipated outcomes (risk as uncertainty).

Typical operational risks for schools include the risk of injury or death, failure to provide an adequate duty of care to students, failure to educate, poorly managed assets or budgets, damage or loss of facilities or assets and poor communication with stakeholders and the school community. It may even extend to reputational damage beyond immediate stakeholders' and into the broader community. In fact, risk is integral to all aspects of school leadership, management and operations.

What is Risk Management

The management of risk involves developing the school culture, processes and structures to ensure potential opportunities are realized and threats are avoided, controlled or minimized. Risk management involves the identification, measurement, control and minimization of risks within your organization. It is a process that requires ongoing monitoring and evaluation. The purpose of risk management is to make your school as safe as possible, and involves the identification of hazards, followed by elimination or control of the potential risks associate with the school's operations.

Risk Management is simply a structured and systematic approach to decision making for a

range of issues including health and safety management.

Managing risks in school

The overall responsibility for risk management in schools rests with the Principal and Council.

There are many formal risk control policies and procedures which apply to school, and they are related to the management of specific risks. For example; Occupational health and Safety for staff and students, Emergency Management and incident Reporting, Financial Management and School Council financial Audits, the School Accountability and Improvement Framework and School Council Governance processes.

The Risk Management Process

Context

- Consider the internal and external environment.
- Understand the needs and expectations of stakeholders.
- Incorporate both operational and strategic risks affecting the school's achievement of objectives, goals, targets and priorities.
- Review the potential impact of risks impacting key initiative and functions in the School.
- Project briefs should include a review of associated risk.
- The School's council role to oversee risk management of key initiatives must be agreed and enacted.
- At minimum the Principal should regularly report to the school council on risks which may affect the achievement of objectives, goals and targets, and how these risks are being managed.

Identify the risk

- Identify the range of possible risks, their causes and consequences.
- Broadly categorise each risk.
- Identify the risk controls and mechanisms by which risks are being managed.

Assess the risk

Assess each risk based on their consequence and likelihood.

- Assess current controls. Are they adequate and regularly monitored, or inadequate and require development.

- For risks requiring further review of their control further resources and a higher priority may be required.

Rank risks

Risks should be ranked via consequence and likelihood and then via the effectiveness of existing controls.

For inadequate controls and high risk items a risk treatment strategy requires development. In particular those categorized as serious consequences and/or have a high likelihood.

However, all risk should be monitored and regularly reviewed.

Treat risks

An action plan detailing risk treatment strategies, timelines, resources, and responsibilities should be developed, agreed and implemented. Treatment types include:

- Reduce the risk (risk mitigation);
- Accept the risk (develop a contingency plan);
- Avoid the risk (stop activity or use a new strategy), and;
- Share or transfer the risk (to another party, insurance, contracts or other formal risk transfer mechanisms).

Monitor, review and improve

A schedule for monitoring progress on the implementation of treatment strategies should be established. A regular review of risk should also be undertaken to redefine, refresh, upgrade or modify the risk ratings and risk treatments as appropriate.

The resources of Willis Australia, Independent Schools Victoria and the Department of Education and Early Childhood Development (DEECD) are able to assist in providing risk management advice to schools.

Stuart Martyn
Chairman Willis Ed

NEW WORK PLACE HEALTH AND SAFETY LAWS

The proposed new national system of uniform work health and safety laws are expected to commence on 1 January 2012.

For Victorian workplaces, the new laws under the proposed *Work Health and Safety Act* will replace those under the current *Occupational Health and Safety Act 2004*. The new national laws will operate much the same as the current Victorian Act with an increased focus on compliance.

Application to schools

The new Act will impose obligations on a *person conducting a business or undertaking* (instead of the term "employer"). Such a person includes all employers, unincorporated associations, incorporated associations and volunteer organisations and therefore includes all independent schools.

The new Act will also use the term *worker* instead of the term "employee". For schools, a person will be a *worker* if they undertake work in any capacity for the school including as:

- an employee
- a contractor of the school and the contractor's employees
- a labour hire employee assigned to work in the school
- a student gaining work experience
- a volunteer.

Duties

The primary duty to be imposed on schools (as persons conducting an undertaking) will be the duty to ensure, so far as is reasonably practicable, the health and safety of:

- workers engaged by the school; and
- workers whose activities in carrying out work are influenced or directed by the school.

There will also be the duty on a school, in having the management and control of a workplace, to ensure, so far as is reasonably practicable, that:

- the workplace;
- the means of entering and exiting the workplace; and
- anything arising from the workplace,

are without risks to the health and safety of any person (which includes students, teachers, parents, visitors and volunteers).

A school's *workplace* will be its school grounds and buildings and any other place at which it students, teachers or parents may be required to attend as part of the school's usual business. It will also include any residence occupied by a person for the purpose of the school business and therefore covers Boarding Houses and residences for teachers and tutors.

The duty to ensure the health and safety of a worker requires the school:

- to eliminate risks to health and safety, so far as is reasonably practicable; and
- if it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable.

Principals and school Boards

The new Act will also expressly impose obligations on *officers*. For a school, an officer will include:

- a director or secretary of the school (if the school is a company)
- a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the school
- a person who has the capacity to affect significantly the company's financial standing.

The definition of *officer* will therefore ordinarily include the school's Principal, its Board members and possibly also its other senior employees, such as its Deputy Principal, Heads of School and Business Managers.

Officers will be required to exercise due diligence to ensure that their school complies with its

duties and obligations under the Act. Exercising due diligence will require the officer taking reasonable steps:

- (a) to acquire and keep up-to-date knowledge of work health and safety matters;
- (b) to gain an understanding of the nature of the school's operations and generally of the hazards and risks associated with those operations;
- (c) to ensure that the school has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety;
- (d) to ensure that the school has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information.

Under the Act the maximum fine for a school will be \$3 million and the maximum fine for an officer will be \$600,000 or 5 years imprisonment or both.

Other matters

There are other substantial matters in the Act with which schools will have to be familiar, including:

- incident notification
- duty to consult workers
- election of health & safety representatives by employees and forming a health & safety committee
- improvement, prohibition and non-disturbance notices
- entry by permit holders to inquire into suspected contraventions.

Stephen Troeth, Gadens Lawyers

LIABILITY FOR SOCIAL MEDIA MARKETING

Introduction

The power of social media to galvanise communities and bring about social change was palpably evident with its role in the Arab Spring. Of late, social media has become an important communication and marketing tool, and a tool for social activism.

Many organisations, particularly NFPs, use Facebook and Twitter to promote their causes and interact with the community. Social media is not just used by a young audience any more: it is used by 65% of adult American internet users, showing how influential it has become. There are now over 750 million people on Facebook alone.

Organisations are often unaware of the legal implications of using social media, which are briefly summarised here.

Issues to look out for

Social media law touches on many areas. An organisation can be liable for posts made on its Facebook or Twitter page, breaches of privacy, defamation and intellectual property issues.

Facebook and Twitter pages

The Federal Court recently determined that organisations can be liable for posts made by third parties on their Facebook and Twitter pages. In *ACCC v Allergy Pathway Pty Ltd (No 2) [2011] FCA 74*, Justice Finkelstein stated that a company was responsible for misleading reviews that customers had written on the company's Facebook page, because the company knew of the Facebook posts, had the power to remove them and did not take steps to do so.

Tips:

- Set a policy of regularly monitoring your social media pages. Promptly delete incorrect, misleading, defamatory or discriminatory posts and content that infringes intellectual property rights.
- Include a statement on your website and social media pages that you are not responsible for content posted by third parties, but be aware that this is not absolute protection.

Intellectual property

Organisations may unwittingly infringe intellectual property law by posting photos, text or other content that the organisation does not own. Organisations may also be liable if third parties post infringing content on their website or social media page. It is easy to copy and post material from one site to another, making such violations increasingly common.

Tips:

- Develop a policy concerning use of other people's material.
- If the organisation is requested to remove material that allegedly violates intellectual property law, seek legal advice fast.

Privacy

Organisations should note that information gathered through social media may be subject to privacy laws that restrict how the information can be used. They should also be cautious about what information they put on social media sites, as the site may gain ownership of that information.

Tips:

- Ensure that you and your employees do not disclose confidential information on social media.
- Develop an employee policy - see the tip below.

Organisations can be liable for misleading, defamatory and other inappropriate statements that an employee makes on social media. Alternatively, an organisation may wish to discipline or terminate an employee's employment if they behave inappropriately online. First check whether this is permitted under the law.

Tip:

- Put in place an employee social media policy, to establish clear expectations for conduct. It may be helpful to seek legal advice on what to include in the social media policy.

Moore's Legal

WEB LINKS

1. Here are some useful links that cover some important topics impacting Schools.

OECD - Review of Evaluation and assessment of Education in Australia, August 2011.

<http://www.oecd.org/dataoecd/1/44/48519807.pdf>

2. Model OHS framework - Issues paper - SafeWork Australia December 2010.

<http://safeworkaustralia.gov.au/Legislation/PublicComment/Documents/Model%20work%20health%20and%20safety%20public%20comment%202010/Issues%20paper%20public%20comment/IssuesPaper.pdf>

- Does your current approach to OH&S regulations have coverage of the issues in this document.

3. Managing the work environment and facilities - Safe Work Australia, December 2010.

<http://safeworkaustralia.gov.au/Legislation/PublicComment/Documents/Model%20work%20health%20and%20safety%20public%20comment%202010/Draft%20Model%20Codes%20of%20Practice%20for%20public%20comment/ManagingTheWorkEnvironmentAndFacilities.pdf>

- How would your school rate using the workplace facility checklist contained as appendix A.

4. Teacher productivity and human capital agenda - Chairman, Productivity Commission, April 2010.

http://www.pc.gov.au/data/assets/pdf_file/0008/97046/advancing-human-capital.pdf

- Some interesting observations about teacher numbers and class sizes on page 13-14.

David Dannock

2011 DIARY

Please note the following relevant dates.

2011		
21/11/11	State Committee Meeting	St Margaret's School
18/11/11	CEBA General Meeting	TBA
25/11/11	State Committee Meeting	Carey Baptist Grammar School
23/11/11	Turf Day	TBA
25/11/11	ASBA Christmas Function	Trinity Grammar
2/12/11	CEBA Christmas Function	TBA

Send your comments or any contribution to:

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David and Ross
