Duty of care: risk management and under 18s

AIEC 2019 – Pre – conference workshop

Tuesday, 15 October 2019

Outline

▶ Student visa and National Code requirements

▶ Standard 5 Quiz

▶ Models for approved welfare and accommodation arrangements

▶ Panel reflection: areas of risk

▶ Principles and good practice in risk management

▶ Scenarios

Student visa requirements for under 18 international students

International students under 18 years of age must have one of the following welfare arrangements in place before a student visa can be issued:

- Nominate a parent, legal custodian or relative over 21 years of age as the student guardian. This person must have a visa to stay in Australia for the duration of the student visa or until the student turns 18. The Form 157N Nomination of a student guardian to your application (207KB PDF) must be completed and this arrangement will be assessed and **approved** by Home Affairs.

- Welfare arrangements approved by the education provider who will issue a Confirmation of Appropriate Accommodation and Welfare (CAAW) letter with a nominated start and end date.

Understanding under 18 requirements as part of the decision making process

Prior to accepting an overseas student or intending overseas student for enrolment in a course, the registered provider must make comprehensive, current and plain English information available to the overseas student or intending overseas student on:

- The policy and process the registered provider has in place for approving the accommodation, support and general welfare arrangements for younger overseas students (in accordance with Standard 5). (NC, Std 2.2.10).

- The written agreement with the overseas student or intending overseas student under 18 years of age, must be signed or otherwise accepted by the student's parent or legal guardian. (NC, Std 3.2).

Child safety

- Where the registered provider enrols a student who is under 18 years of age, it must meet the Commonwealth, state or territory legislation or other regulatory requirements relating to child welfare and protection appropriate to the jurisdiction(s) in which it operates. (NC, Std 5.1).

- Ensure any adults involved in or providing accommodation and welfare arrangements to the student have all working with children clearances (or equivalent) appropriate to the jurisdiction(s) in which the registered provider operates. (NC, Std 5.3.2).

Emergency contacts

Registered providers must ensure students under 18 years of age are given age- and culturally-appropriate information on:

- who to contact in emergency situations, including contact numbers of a nominated staff member and/or service provider to the registered provider. (NC, Std 5.2.1).

- seeking assistance and reporting any incident or allegation involving actual or alleged sexual, physical or other abuse. (NC, Std 5.2.2).

Issuing to CAAW

Where the registered provider takes on responsibility under the Migration Regulations for approving the accommodation, support and general welfare arrangements (but not including guardianship, which is a **legal relationship not able to be created or entered into by a registered provider**) for a student who is under 18 years of age, the registered provider must:

- nominate the dates for which the registered provider accepts responsibility for approving the student's accommodation, support and general welfare arrangements and advise Immigration, which is responsible for administering the Migration Regulations, of the dates in the form required by that department. (NC, Std 5.3.1).

Accommodation arrangements

Have and implement documented processes for verifying that the student's accommodation is appropriate to the student's age and needs:

▶ prior to the accommodation being approved. (NC, Std 5.3.3.1).

▶ at least every six months thereafter. (NC, Std 5.3.3.2).

Third parties

▶ Have documented policies and processes for selecting, screening and monitoring any third parties engaged by the registered provider to organise and assess welfare and accommodation arrangements. (NC, Std 5.3.7).

Critical incidents and breaches in welfare and accommodation arrangements

- Include as part of their policy and processes for critical incidents under Standard 6 (Overseas student support services), a process for managing emergency situations and when welfare arrangements are disrupted for students under 18 years of age, (NC, Std 5.3.4).

- Maintain up-to-date records of the student's contact details as outlined in Standard 3.5, including the contact details of the student's parent(s), legal guardian or any adult responsible for the student's welfare. (NC, Std 5.3.5).

- If the registered provider is no longer able to approve the welfare arrangements of a student, the registered provider must make all reasonable efforts to ensure that the student's parents or legal guardians are notified immediately. (NC, Std 5.4).

Critical incidents and breaches in welfare and accommodation arrangements (continued)

▶ If the registered provider is unable to contact a student and has concerns for the student's welfare, the registered provider must make all reasonable efforts to locate the student, including notifying the police and any other relevant Commonwealth, state or territory agencies as soon as practicable. (NC, Std 5.5).

Changes in welfare arrangements

Advise Immigration in the form required by that department:

▶ as soon as practicable if the student will be cared for by a parent or nominated relative approved by Immigration and a Confirmation of Appropriate Accommodation and Welfare (CAAW) is no longer required. (NC, Std 5.3.6.1).

▶ within 24 hours if the registered provider is no longer able to approve the student's welfare arrangements. (NC, Std 5.3.6.2).

Suspension or cancellation of enrolment

The registered provider must continue to approve the welfare arrangements for that student until any of the following applies:

- The student has alternative welfare arrangements approved by another registered provider. (NC, Std 5.6.1).

- Care of the student by a parent or nominated relative is approved by Immigration. (NC, Std 5.6.2).

- The student leaves Australia. (NC, Std 5.6.3).

- The registered provider has notified Immigration under Standard 5.3.6 that it is no longer able to approve the student's welfare arrangements or under Standard 5.5 that it has taken the required action after not being able to contact the student. (NC, Std 5.6.4).

Students transferring to another provider

If the registered provider enrols a student under 18 years of age who has welfare arrangements approved by another registered provider, the receiving registered provider must:

- negotiate the transfer date for welfare arrangements with the releasing registered provider to ensure there is no gap. (NC, Std 5.7.1).

- inform the student of their visa obligation to maintain their current welfare arrangements until the transfer date or have alternate welfare arrangements approved or return to their home country until the new approved welfare arrangements take effect. (NC, Std 5.7.2).

Models for approved accommodation arrangements

Lightning Survey in the room

What model – or combination of models do you use / prefer?

➤ Accommodation   (with CAAW)

(without CAAW)

➤ Welfare   (support, curfew monitoring)

Pro's   Con's

Panel reflection: areas of risk

- Amanda Fritz, Director International, The Anglican Schools Commission

- Louise Tabrum, Manager International Student Compliance, UNSW

- Elvia Cacciotti, Manager School Support and Compliance, NSW DET

Independent Schools Queensland is the peak body representing Queensland's independent schooling sector. Over 1,700 international students are currently studying at more than 75 independent schools in Queensland in a range of individual and group long-term and short-stay programs.

Definitions

Duty of care is the legal obligation to safeguard others from harm while they are in your care, using your services, or exposed to your activities.

Risk is the "effect of uncertainty on objectives" and an effect is a positive or negative deviation from what is expected.

Risk Management applies policies, procedures, and practices to a set of activities to:
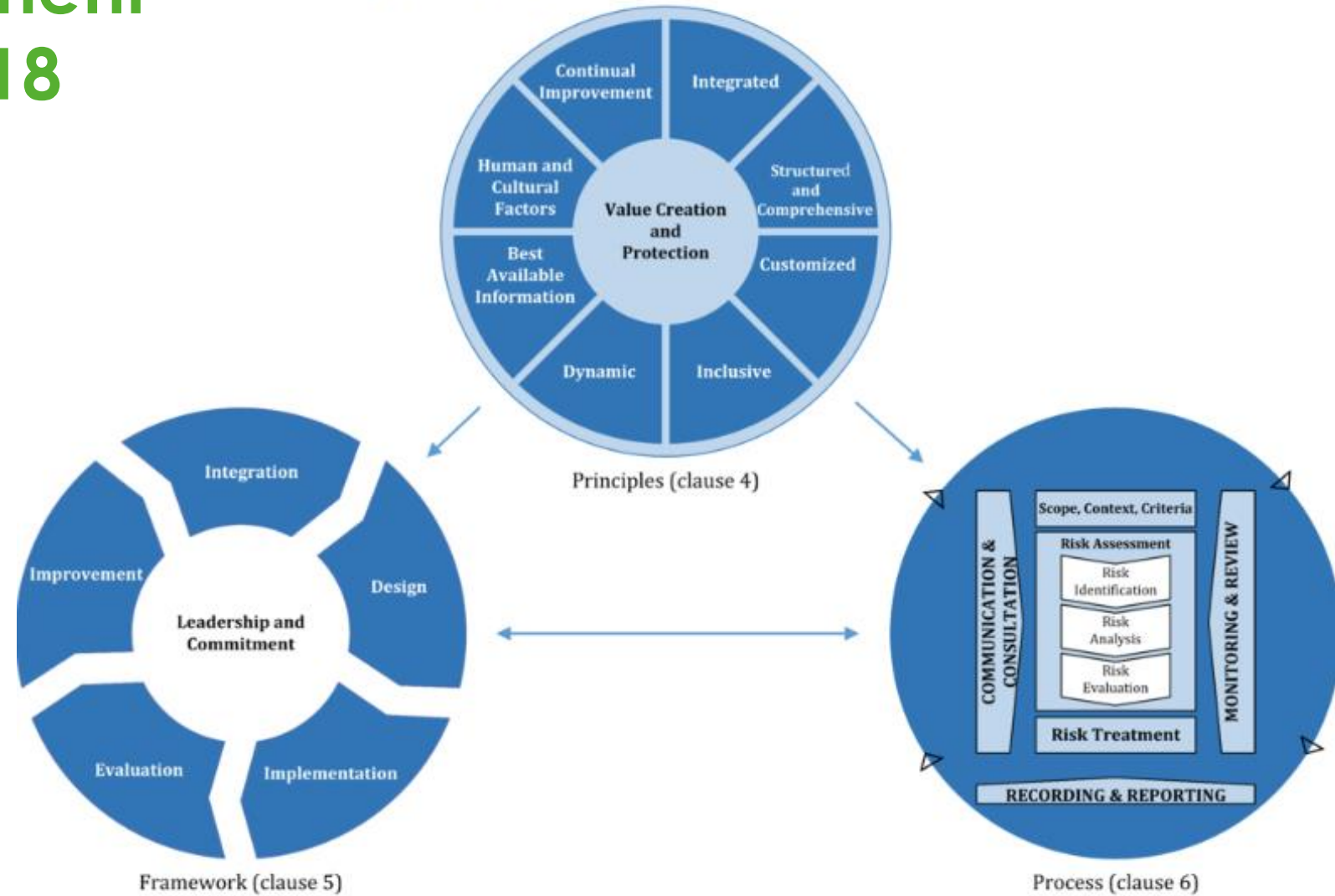
1. establish the context,
2. communicate and consult with stakeholders, and
3. identify, analyze, evaluate, treat, monitor, record, report, and review risk.

Independent Schools Queensland

www.isq.qld.edu.au

Risk Management
ISO 31000: 2018

Figure 1 — Principles, framework and process

Source: https://www.iso.org/obp/ui/#iso:std:iso:31000:ed-2:v1:en

Risk Management Process examples – ISO 31000 : 2009
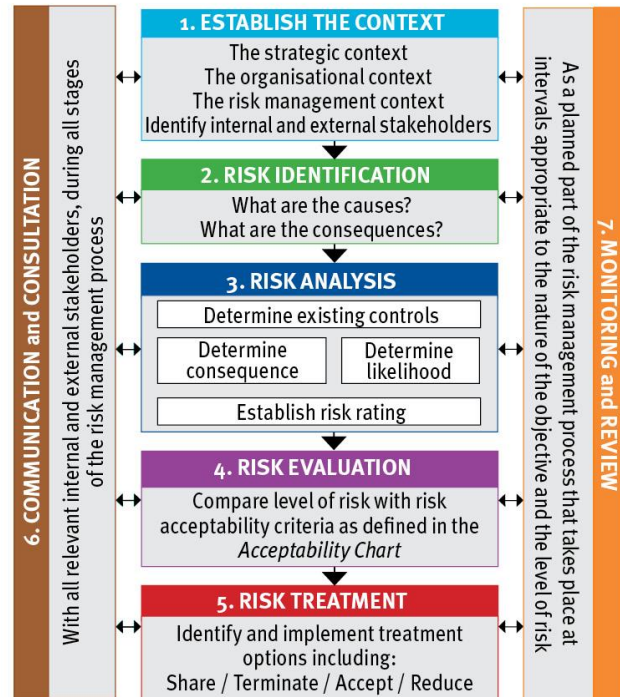
Source: Department of Education and Training Victoria Risk Management Process
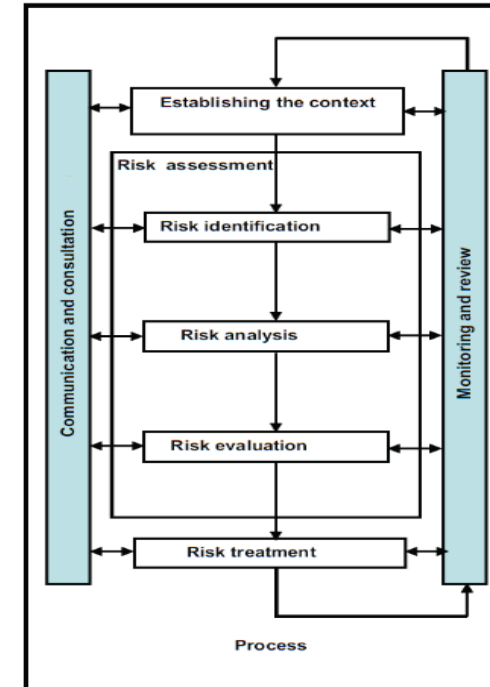
Source: UQ 2.30.01 Occupational Health and Safety Risk Management procedure

Considering risk

Risk Management Checklist

- ✓ Defining the context / activity
- ✓ Identifying the risks
- ✓ Analysing the risks (probability / impact)
- ✓ Evaluating the risks
- ✓ Managing (treating) the risks
- ✓ Communicating and consulting with stakeholders
- ✓ Monitoring, reporting and reviewing for ongoing management

ACTIVITY 1

Categorise "risk" for issues already covered

- Make a list of three (3) situations / activities that have been discussed today where there has been risk involved with international students under 18 years.

- Evaluate the risk

RISK ANALYSIS MATRIX

Likelihood						
		Rare	Unlikely	Possible	Likely	Almost Certain
Consequence	Critical	Moderate	High	High	Extreme	Extreme
	Major	Moderate	Moderate	High	High	Extreme
	Moderate	Low	Moderate	Moderate	High	High
	Minor	Low	Low	Moderate	Moderate	Moderate
	Insignificant	Low	Low	Low	Moderate	Moderate

Source: https://www.bluecard.qld.gov.au/pdf/rmst/201610-Child-and-youth-risk-management-strategy-toolkit.pdf%20.

Considering risk factors when a student is under 18 years

ATTRIBUTES

GENDER:
- Student identifies as male, female or other

AGE:
- 6-10 yo
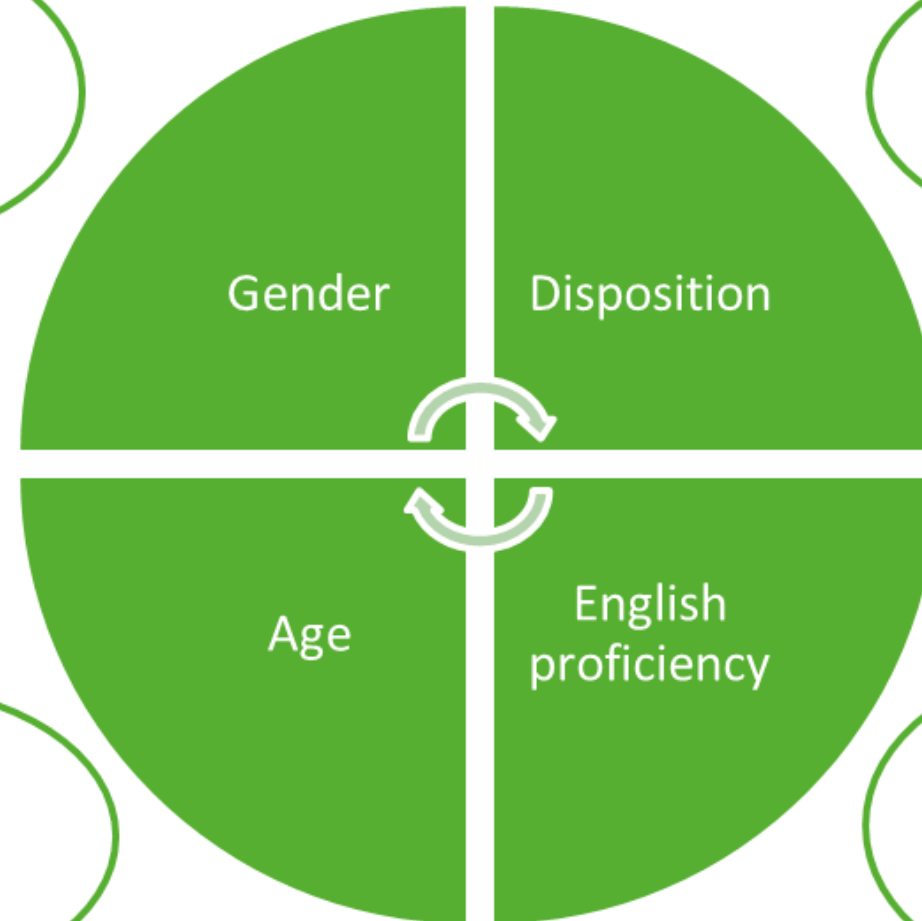- 11-14-yo
- 15-17 yo

ENGLISH PROFICIENCY:
- Reasonably proficient
- Not very proficient

DISPOSITION:
- Student is confident, adapts easily to new situations, fits in
- Student lacks confidence, is anxious, does not respond well to new situations, may appear to be a loner

- Student lives with parent / relative (no CAAW)

- Student lives in provider approved accommodation

Gender

Disposition

Age

English proficiency

- Student is on campus, with others
- It is day / night.

- Student is off campus, with others / alone.
- It is day / night.

ACTIVITY 2

Considering risk factors for under 18s

Consider factors or combinations of factors that might significantly increase or decrease risk in different situations / activities.

ATTRIBUTES

GENDER:
- Student identifies as male, female or other

AGE:
- 6-10 yo
- 11-14-yo
- 15-17 yo

ENGLISH PROFICIENCY:
- Reasonably proficient
- Not very proficient

DISPOSITION:
- Student is confident, adapts easily to new situations, fits in
- Student lacks confidence, is anxious, does not respond well to new situations, may appear to be a loner

OTHER FACTORS

WELFARE ARRANGEMENTS

- Student lives in provider approved accommodation (has a CAAW)
- Student lives with parent / relative (no CAAW)

LOCATION & TIME OF DAY

- Student is on campus, with others.
- Student is off campus and is with others.
- Student is off campus and is alone.
- It is day / night.

ACTIVITY 3

Analysing & managing risk in different scenarios

Refer to Risk management checklist:

- *2-4. Identifying, Analysing and Evaluating the risks*

- 5. Managing (treating) the risks

IDENTIFYING, ANALYSING & EVALUATING RISK

Factors	Student
Age	
Gender	
Level of English	
Disposition	
Welfare & accommodation arrangements	
Connectedness	

Risk Analysis Matrix		
Likelihood	Consequence	Risk

5. Managing (treating) the risk
- What legal requirements / standards / codes / policies / procedures apply?
- What strategies are used to prevent / mitigate / transfer / eliminate the risk?
- What is covered by organisation policies and procedures?
- Who decides / authorises an acceptable level of risk?

"Good practice" includes provider policies and procedures to manage risk in all of these situations.

Good practice

- ✓ The context is understood
- ✓ Risks have been identified in consultation with stakeholders
- ✓ Risks have been analysed
- ✓ Risks have been evaluated as acceptable or not acceptable
- ✓ The risks are being managed
  - o Legal / regulatory requirements are met
  - o Appropriate treatments applied
  - o Appropriate policies and procedures in place
  - o Appropriate communications and authorisation protocols in place
- ✓ Strategies, policies, procedures, etc are clearly communicated to stakeholders
- ✓ Activities, events, etc are monitored, incidents reported and policies, procedures reviewed.

Good practice in your organisation

How does your organisation respond to:

- Critical Incidents
- Student health & wellbeing
- Cultural awareness and adjustment
- Student counselling / support services
- Accommodation (policies & procedures)
- Transport
- Student safety and security – on and off campus
- Telecommunications (telephone/internet) usage
- Monitoring attendance and course progress (visa conditions)

What can help to reduce risk?

Overarching risk management

- Child Protection Policy
- Complaints Handling Policy
- Privacy Policy
- Child Risk Management Strategy
- Staff Code of Conduct (articulating standards of behaviour of staff)
- Risk Management policy
- Anti-discrimination policy
- Inclusion and disability policy
- Staff training programs

Homestay policies & documents

- Homestay Parent/Carer Information Handbook
- Homestay Student Information Handbook – issued at enrolment
- International Students Complaints Handling and Appeals Process and Policy (required under the National Code)
- Homestay Code of Conduct (covering student, host and other stakeholders, including external service providers) – issued to homestay hosts and provided to all relevant parties.
- Homestay host induction program and materials
- Homestay provider / host written agreement
- Communication protocols

Homestay Child Risk Management Strategy

Example

ISQ has developed a Homestay Child Risk Management Strategy template to provide written processes which ensure relevant stakeholders are aware of and comply with legislation applying in Queensland about the care and protection of a student in a homestay placement.

Applies to all individuals engaged, namely the homestay service providers and homestay hosts as well as the homestay student, residents of homestay host homes and visitors to homestay hosts' homes.

Useful resources - Government

Commonwealth

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

- National Code 2018 factsheet: Standard 5 Younger Overseas Students

- Home Affairs: Welfare arrangements for students under 18

- National Principles: Child Safe Organisations
    - Tools & resources

- Child Family Community Australia - Mandatory reporting of child abuse and neglect resource sheet

State/Territory

- Queensland Government Blue Card Services - Child and Youth Risk management strategies
    - Child and Youth Risk Management Strategy Toolkit
    - Child and Youth Risk Management Strategy Self-Assessment Checklist
    - Risk management plan for high risk activities and special events template

- Department of Education and Training Victoria includes links to:
    - Risk Management Process
    - Pestle analysis
    - SWOT Matrix

Useful resources – International Education

Registered providers

- Australian Government Schools International (AGSI) Homestay Standards
- QUT Homestay and Under 18 Supervision Program
- UQ International Student Supervision Program

Other

- English Australia Guide to best practice in international mental health 2018
- New Zealand Schools International Education Business Association (SIEBA) online resources - international students' mental health and wellbeing

Industry perspectives:

School Governance (CompliSpace Media)

- 'The Practical Perspective': Addressing Common Challenges in Practically Managing Overseas Students (August 2018)
- Overseas students: Extortion Attempts and what they mean for schools (June 2018)
- Effectively Managing Risk for Overseas Students (May 2018)

The Educator

- Greater support for international students needed – report (02/07/19)

ICEF Monitor

- A corporate approach to managing risk in international recruitment (28/06/16)
- Cultural experience the big driver of study abroad for Generation Z (28/02/17)

Some additional information

What is risk and how to mitigate it?

According to ISO 31000, *risk* is the "effect of uncertainty on objectives" and an *effect* is a positive or negative deviation from what is expected.

A *risk management process* systematically applies management policies, procedures, and practices to a set of activities intended to establish the context, communicate and consult with stakeholders, and identify, analyze, evaluate, treat, monitor, record, report, and review risk.

Source: Praxiom (ISO 31000:2018 in plain English)

The Updated International Risk Management Standard ISO 31000 – Comparison of Changes

On 15 February 2018, a new International Risk Management Standard ISO 31000:2018 was released. This second edition replaces AZ/NZS ISO 31000:2009 (the 2009 Standard).

At this point in time, ISO 31000:2018 hasn't been adopted as the Australian Standard however it is likely to be in the near future.

ISO 31000:2018 should be used by people who create and protect value in organisations by managing risks, making decisions, setting and achieving objectives and improving performance.

Source: School Governance: March 2018

AZ/NZS 2009 Principles	ISO 2018 Principles
Risk Management creates and protects value	No longer a principle but incorporated into the remainder of the Standard
Risk Management is part of decision making	
Risk Management explicitly addresses uncertainty	
Risk Management is an integral part of all organisational processes	Integrated - The same with language simplified
Risk Management is systematic, structured and timely	Structured and comprehensive - The same with language simplified
Risk Management is based on the best available information	Best available information - The same with language simplified
Risk Management is tailored	Customized [sic] - wording change from "tailored" to "customized"
Risk Management takes human and cultural factors into account	Human and cultural factors - The same with language simplified
Risk Management is transparent and inclusive	Inclusive - The same with language simplified
Risk Management is dynamic, iterative and responsive to change	Dynamic - The same with language simplified
Risk Management facilitates continual improvement of the organization	Continual Improvement - The same with language simplified

MORE INFORMATION

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