



RUNNING THE RISK?

RISK MANAGEMENT TOOL FOR
VOLUNTEER INVOLVING ORGANISATIONS

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OF FAMILY AND COMMUNITY SERVICES

fac making a difference


volunteering australia

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Disclaimer

This risk management booklet is intended to provide general and useful information. However, it is not proposed to be comprehensive legal advice. Readers are advised that before acting on any matters arising in this risk management booklet, they should seek specific legal advice about their situation.

Foreword

The impact of the recent worldwide 'crisis' in insurance on the many volunteer involving organisations that work within our communities has not gone unnoticed. Over the past two years organisations have been reporting significant and, in some instances, devastating increases in the cost of insurance premiums. Perhaps of more concern are the reports of a failure to acquire insurance coverage at all. It is in the area of public liability insurance that the effect has been most felt.

While governments and the community have sought to find solutions to the current situation and various responses have been proposed and implemented in the different jurisdictions, one common feature has been the heightened interest in organisations' risk management practices.

Organisations have been challenged to think about whether they are appropriately managing the daily risks that they face. Is the workplace safe? Are clients protected from physical and other harm? Are volunteers protected? Has everything that can reasonably be done to prevent injury or other negative consequences been done?

When considered as a whole, risk management can seem intimidating. It is a process that must be carefully worked through and the particular needs of each organisation taken into account. However, with the right tools the process of developing effective risk management strategies will be a lot less daunting.

This publication is intended to be one such tool. Volunteering Australia has produced *Running the Risk?* specifically to help volunteer involving organisations identify the range of risks that might affect them and their volunteer staff alike and implement strategies to deal with these risks.

We hope that you find this a useful tool and welcome your feedback either on the enclosed feedback form or via e-mail:
volaus@volunteeringaustralia.org

Ignoring the risks that arise from both your core and your special activities is a dangerous strategy. Managing those risks properly will protect your organisation and will give managers, staff and volunteers the confidence to pursue the organisation's mission without the fear of legal action or harm.

How to Use This Booklet

2 The step-by-step outline of the risk management planning process and the tools given in this publication are intended as guides that you can adapt to suit your organisation's needs. The publication is divided into a number of sections which can be used in different ways.

3 Why Manage Risk?

Explains what risk management is, how it differs from legal compliance, and how it fits in with the *National Standards for Involving Volunteers in Not-for-Profit Organisations*.

6 Frequently Asked Questions

More legal and policy reasons why you need to manage risk.

8 Arriving at a Risk Management Program

This 'how-to' section will help the working group or project team responsible for producing your risk management program. It contains project planning guidelines and a clear and simple 4-step guide to identifying and treating risks.

18 Risk Identification Toolkit

The checklists and practice audit in this section can be used in training sessions to get staff and volunteers thinking about risk, or as actual checklists to give your team when you start to prepare your plan.

28 Case Studies

Different organisations manage risk in different ways. The case studies show how several not-for-profit organisations have approached risk management and how it can benefit your organisation. **No 1** illustrates the court's attitude to the **duty of care** owed by not-for-profit organisations to their volunteers. **No 2** (the National Safety Council, Victoria Division) illustrates some of **the pitfalls that officers face** in governing not-for-profit organisations. **Nos 3, 4 and 5** include examples of **risk management documentation** and illustrate how Surf Life Saving Queensland, a Meals on Wheels unit, and a centre for hearing-impaired children are planning to manage some of the risks they face in providing their services.

46 Forms

A sample blank **Risk Register**, **Risk Treatment Schedule** and **Risk Action Plan**. Photocopy or adapt these to meet the needs of your organisation. Or download in PDF from www.volunteeringaustralia.org

49 Glossary

A guide to key terms in risk management.

Why Manage Risk?

Every manager of a not-for-profit organisation knows that there can be surprises for the organisation at any time, both good and bad. A volunteer board member may suggest a new funding source or service opportunity that could help the organisation toward achieving its mission. Equally, a staff member or volunteer may provide an inappropriate service that ends in a legal dispute, or may carelessly or accidentally do something resulting in harm to themselves or others.

These events can have a serious impact on the not-for-profit organisation's effectiveness, as well as on the physical or financial welfare of volunteers, staff or other stakeholders. These impacts may be:

- legal actions which deplete the organisation's finances,
- legal actions personally against the board, senior employees or volunteers,
- distraction of management in dealing with crisis situations, and
- adverse publicity affecting the organisation's reputation.

Some events have such devastating consequences for an organisation that the risk of them happening cannot be left to chance. Many of these impacts can be avoided or dealt with systematically through a process known as **risk management**.

What is risk management?

Risk management is the process of managing your organisation's exposure to potential liabilities. It does this by identifying risks in order to prevent them or reduce them, and by providing for funds to meet any liability if it occurs.

Liabilities do not just arise from physical risks – they also arise from not meeting regulatory requirements, and from financial, moral or ethical issues.

*Why **board members** need to be vigilant about risk management – see Case Study 2.*

This publication is a tool for preparing general risk management strategies, rather than plans dealing specifically with legal compliance issues. Note that Standards Australia has produced a specific standard for legal compliance plans (AS 3806: 1998) which can help you to formulate a legal compliance plan.

Risk management

- increases your chances of succeeding in an activity or preventing a loss,
- minimises the effect of a loss that could not be prevented,
- gives managers, staff and volunteers the confidence to pursue their mission without the fear of legal action or harm,
- approaches risk in a structured and calculated manner, rather than being haphazard.

Risk management is not

- about getting as much comprehensive insurance coverage as possible,
- about just avoiding legal action,
- a tool of 'control freak' managers to stifle innovation and creativity,
- about preventing the organisation from ever taking a calculated risk,
- about creating excessive bureaucracy and excluding volunteers from participating in the organisation,
- an expensive consultant's plan sitting in a glossy folder on your library shelf.

Risk is a part of living in our society. The challenge is to treat the risks in an appropriate and cost-effective manner so as to protect the organisation and its stakeholders. This must be done without dampening out the inspiration of volunteers or the social entrepreneurial spirit of employees with inflexible bureaucratic rules and procedures. It requires in essence a cultural shift.

What is the difference between risk management and legal compliance?

In working out what risks it faces, your organisation will probably identify the risk of incurring a penalty for breaking a law (for example, a fine for not filing its annual audited financial report with a government agency). This type of risk should be dealt with by a legal compliance plan rather than a risk management plan. This is because the law requires us to comply actively with (obey) legislative provisions, regardless of cost. Risk management – making a plan about how your organisation will manage the risk of failing to comply and being discovered in non-compliance, and/or how you will fund the fine – isn't an option.

Where does risk management fit into Volunteering Australia's National Standards?

The *National Standards for Involving Volunteers in Not-for-Profit Organisations* represent best practice in the management of volunteers. They are a generic set of guidelines produced by Volunteering Australia following extensive consultation with the volunteer sector. Risk management is part of that best practice.

According to the Management Responsibility standard (clause 2.5), an organisation should 'apply systematic risk management processes and practices to the tasks of identifying, analysing, assessing and monitoring risk for such matters as:

- a** volunteer/customer dissatisfaction;
- b** unfavourable publicity;
- c** mismanagement;
- d** threat to physical safety of volunteers/customers;
- e** failure of equipment or computer systems;
- f** a breach of legal or contractual responsibility;
- g** fraud;
- h** deficiencies in financial controls and reporting.'

The standard asks 'Are effective methods established to treat, avoid, or minimise any emerging or potential risks?' (clause 2.6). The standard highlights volunteer recruitment, selection, orientation and workplace health and safety as key areas for risk management (clauses 3 and 4).

Each organisation should have a policy and procedural framework that governs the way its volunteers are managed. A risk management program is part of that framework.

Standards Australia also has a standard on risk management which provides a generic guide for establishing and implementing risk management, and can be applied to community enterprise. It performs a similar function to the National Standards of Volunteering Australia, but is specific to risk management. The material in this publication relies on this standard and readers are encouraged to consult it (AS/NZS 4360:1999, available from <http://www.standards.com.au>).

How do you find out about changes to laws?

There is no single easy way to do this. You can find out about changes to laws and standards relevant to your organisations's activities by:

- *using the knowledge of your board members and voluntary professional advisors,*
- *supporting continuing professional education for your paid staff,*
- *monitoring information from peak industry and service associations,*
- *subscribing to information services, journals and other publications from government departments, commercial legal publishers and professional organisations,*
- *monitoring reliable legal and government websites.*

Looking up legislation

You can look up all state and federal legislation (Acts and Regulations) as well as many court decisions on the Australian Legal Information Institute's site at <http://www.austlii.edu.au> and the federal Attorney-General's Department's database at <http://SCALEplus.law.gov.au> Most state governments also have a website containing the legislation that applies in that state, as well as Bills (proposed legislation) being considered by the state Parliament.

Frequently Asked Questions

We are fully insured, why do we need risk management?

Insurance is only one way to manage the risks facing an organisation. It may not be the best way of managing a risk because:

- it may cost much more than other ways of controlling risk,
- it does not achieve the preferred outcome (preventing harm), it only compensates after the event/injury,
- it may not cover all risks and may be capped to a ceiling, and
- it depends on the insurance company being solvent and able to pay the compensation at the time of the claim.

Do we still need a risk management plan if volunteers in our state are protected by volunteer protection legislation?

The Commonwealth and some states in Australia are following the American example of passing laws to protect certain volunteers from being personally sued under certain conditions. The volunteer's liability is transferred to the community organisation, which may then be able to be sued for the actions of its volunteer. Your risk management plan therefore needs to take into account the provisions of any volunteer protection legislation in your state.

Note that this type of legislation does **not** give all volunteers a blanket immunity in all circumstances. (It may not apply, for example, if the volunteer was involved in a motor vehicle accident, was affected by alcohol or certain other drugs, or was acting outside the scope of the activities authorised by the community organisation or contrary to its instructions.)

Why do volunteers need to be part of our risk management plan?

A not-for-profit organisation is responsible for the actions of its volunteers and paid staff. Inappropriate volunteer behaviour can seriously harm and prevent a not-for-profit organisation from achieving its mission. Volunteers, like employees, are a valuable resource to your organisation and should be part of any risk management system. Including volunteers in your risk management system will help protect both your organisation and your volunteers. The various volunteer protection Acts do not lessen the need for appropriate risk management strategies.

To find out whether your state has passed volunteer protection laws, contact the Volunteering Centre in your state or territory. See the back cover for contact details.

*For an example of an organisation's **duty of care to volunteers**, see Case Study 1.*

Will imposing risk management plans and expectations on volunteers make it harder to recruit and train volunteers?

Volunteers want to enhance the resources of a not-for-profit organisation, not deplete them. They want to help it to achieve its mission, not hinder it. Most volunteers want to be part of a well-managed organisation that considers their needs and rights, and gives them proper training that enables them to maximise their contribution. Appropriate risk management plans which are clearly communicated will reassure volunteers and give them confidence about working for the organisation.

What are some common mistakes in risk management plans?

- They are formally prepared, but never implemented or regularly revised.
- They cover the risks that are easy to treat and leave the difficult risks untreated.
- They rely too heavily on insurance as a strategy.
- They assume the organisation's insurance covers risks that it does not.
- The risk management plan is not amended when insurance policies alter or new activities begin.

Wouldn't it be easier just to copy another organisation's risk management plan?

Not-for-profit organisations are diverse, even within the same sector. A risk management plan will be quite different even for similar organisations because of variables such as size, organisational culture, property ownership and leadership. You are far more likely to identify all of the risks relating to your organisation by working through the process of planning your own risk management strategy, than by just blindly copying another organisation's work. An understanding of what risk management means and an ownership of the strategy to protect and enhance the mission of your organisation are essential.

PLANNING PATHWAY



Arriving at a Risk Management Program

Like many management processes, the process for establishing and maintaining a risk management program is continual and cyclical. If your organisation has already adopted a strategic planning process, risk management planning can be complementary to it.

How you approach risk management planning will depend on the size, activities, internal environment and management structure of your organisation. Some boards, because of their organisation's size and complexity, will delegate the task to the Chief Executive Officer, who may seek external professional assistance; other boards with few or no paid employees will do it themselves or form a volunteer task group to assist them.

Another common variation is the scope of the risk management plan. Large organisations may need comprehensive risk management planning but in smaller organisations specific areas of activity can be chosen for risk management. **All organisations, whatever their size, need at least to have a risk management plan for workplace health and safety and recruitment of volunteers.**

How to get there

There is no point in producing a risk management plan that is too hard to implement, that does not have organisational support, or that no one understands or knows about. Before considering what risks need to be managed, put a process in place that will support the development of an appropriate program and help it to be effective. The planning pathway, on the left, which is consistent with the step-by-step guide to implementing volunteer policies suggested in the *Implementation Guide for the National Standards for Involving Volunteers in Not for Profit Organisations*, should help.

Pay particular attention to how you are going to **obtain board support** for the plan and **communicate the plan** throughout the organisation.

Choosing the right team to lead the process is also very important in developing a comprehensive and appropriate risk management plan. The individual or team must be able to communicate well with the relevant stakeholders, and needs to have an excellent knowledge of the activities, dynamics and history of the organisation; an awareness of the law; and a knowledge of insurance. Where a volunteer task group is required, lawyers, insurance brokers or agents, auditors or accountants, and former chairs may all be suitable. Former office-bearers are often useful because of their long experience with the organisation. The choice of who will chair the working party is crucial – they must have the drive to see the project through the first cycle, which can be a demanding task.

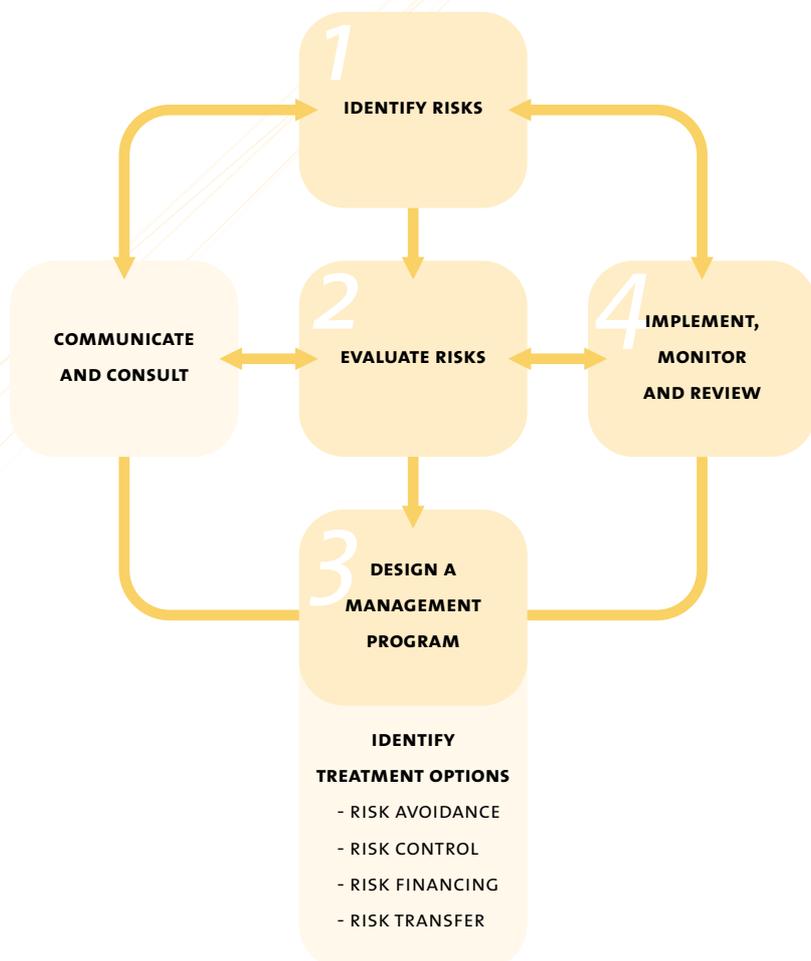
Not-for-profit organisations with links to state and federal bodies may be able to seek help from those organisations. Peak bodies of churches, service clubs, sporting codes and other interest groups can often also provide member organisations with information on common issues that will help them formulate a risk management strategy.

Remember

- Follow the policy development process suggested by the National Standards – it becomes easier the more you do it.
- Risk management strategies can be developed area by area, rather than all at once.
- Communication with all stakeholders is vital.

What to include in your plan

Once the decision to prepare a risk management plan has been made and communicated across your organisation, you can move on to work on the plan itself. Its content will be determined by the four steps outlined in the chart below, which deal specifically with identifying, assessing and managing risk. They are discussed in more detail in the following pages.



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What are the possible liabilities or hazards that face your organisation and its stakeholders – its officers, members, clients and volunteers?

STEP 1: Identify the Risks

Identifying risks involves making a systematic assessment of all the hazards that could arise from your organisation's activities. This will require a knowledge of your organisation, its social and legal context, its mission and its activities.

Establishing the **organisational context** accurately will help you to identify key issues:

- How much financial risk can the organisation absorb? Are its assets sufficient to meet potential liabilities?
- How would a claim against your organisation, one of its employees or volunteers affect its reputation and ability to achieve its mission?

For example, a not-for-profit organisation whose mission is to defend health professionals from malpractice claims would view the risk of being sued as normal, whereas a not-for-profit organisation whose mission was to promote safe working conditions for volunteers would suffer serious consequences if it was sued or prosecuted for failing to provide safe working conditions for its own volunteers.

For help with **identifying risks**, turn to the **Toolkit** on page 18.

Understanding your organisation's **legal context** is also crucial to identifying the possible liability issues:

- Is the organisation a corporation, an incorporated association or something else? This will affect the legal obligations it has and the extent and nature of its liabilities.
- Where does it operate? In addition to federal law, will the laws of only one state or of several states apply? Will overseas jurisdictions be involved?

If your organisation is large or has diverse activities, other risk identification strategies may need to be employed. You may want to send a risk identification survey form to key people in the organisation to help compile an inventory of risks.

The process of identifying risks needs to be as complete as possible for the plan to be effective. While it can be time-consuming, the identification process will become simpler with each plan you devise.

Step 2: Evaluate the Risks

STEP

Not all the risks you identify will be significant, but some may have a good chance of developing into a liability. Your organisation probably won't have the resources to deal equally with all potential liabilities, so the next step is to rank them. For example, you may have identified both a potential risk of defamation in your volunteer-produced newsletter and the potential for physical injury to your volunteers or clients through negligence. For most not-for-profit organisations, the injury through negligence is probably more likely to happen than the defamation. In this example, treating physical injury risks first makes more sense than being concerned initially with the risk of defamation. This understanding can then be applied when you come to allocating scarce resources in the most effective way for controlling potential risks.

Ranking your risks statistically (ie. on the frequency with which they have occurred in the past) may be nearly impossible. Instead, a simple qualitative risk classification may be enough. You can assign values to **likelihood** and to **consequences** or **impact** as follows:

The **likelihood** of an event can be classified as:

- a** (almost certain) The event is expected to occur in most circumstances.
- b** (likely) The event will probably occur in most circumstances.
- c** (moderate) The event should occur at some time.
- d** (unlikely) The event could occur at some time.
- e** (rare) The event may occur only in exceptional circumstances.

The **consequence** or **impact** of the event occurring can be defined as:

- 1** (trivial) No action is required and/or low financial loss.
- 2** (minor) No further action is needed at present, but monitoring will be necessary to ensure that controls are maintained.
- 3** (moderate) Efforts need to be made to reduce the risk, but the costs of doing so need to be carefully considered.
- 4** (substantial) The activity should be halted until the risk has been reduced or sufficient control measures are in place.
- 5** (intolerable) The activity that gives rise to the risk should be prohibited – this may indicate that it needs to be part of a legal compliance plan.

How likely is a loss?
How severe will it be? How soon and how often is it likely to happen? What kind of danger does it represent to your organisation? Who is exposed?

The two measures of likelihood and consequences can now be brought together in a ‘level of risk’ matrix.

LEVEL OF RISK					
LIKELIHOOD	CONSEQUENCES OR IMPACT				
	1 TRIVIAL	2 MINOR	3 MODERATE	4 SUBSTANTIAL	5 INTOLERABLE
A (ALMOST CERTAIN)	S	S	H	H	H
B (LIKELY)	M	S	S	H	H
C (MODERATE)	L	M	S	H	H
D (UNLIKELY)	L	L	M	S	H
E (RARE)	L	L	M	S	S

L – LOW RISK: MANAGE BY ROUTINE PROCEDURES

M – MODERATE RISK: MANAGEMENT RESPONSIBILITY MUST BE SPECIFIED

S – SIGNIFICANT RISK: SENIOR MANAGEMENT ATTENTION NEEDED

H – HIGH RISK: DETAILED RESEARCH & MANAGEMENT PLANNING REQUIRED AT SENIOR LEVELS

See page 46 for a **Risk Register** proforma. Examples of completed risk registers are contained in the Case Studies.

While this is not as precise as a statistical ranking, it lets you prioritise the risks facing the organisation, from those that threaten its existence to those that are trivial. The main problem will arise when there are risks that have very severe consequences but occur infrequently (eg. a serious cyclone or earthquake). These high severity/low frequency risks are the most unpredictable and embody the greatest threat to the existence of the not-for-profit organisation.

You can use a **Risk Register** to record **all** the risks you have identified, their likelihood, their probable consequences and the risk priority. Remember to revise the risk register periodically – the likelihood and consequences of risks alter over time as circumstances change (see Step 4 on page 17).

Step 3: Decide on the Strategies

STEP

Once you have systematically identified and prioritised the risks facing your organisation, you can start thinking about how to manage them. The resulting risk management program should be in the form of a written policy document, approved at board level and adopted across the organisation.

Risk management strategies

The following strategies are commonly used to minimise risks:

- risk **avoidance**
- risk **control**
- risk **financing**
- risk **transfer**

These strategies are not mutually exclusive. Often there will not be a single 'best' option, and the best way for you to manage a specific risk might be by using a combination of strategies, for example, controlling the risk and transferring it via insurance. Arriving at the best strategy involves balancing the cost of implementing it with the benefits derived from lessening the risk, or with the opportunities afforded by taking the risk.

What are the most effective and cost-efficient controls you can use to prevent or reduce the probability of an event occurring and to minimise the cost of a loss?

What will be the benefit? Is the benefit worth the cost of control?

*Case Studies 3, 4 & 5 show how three not-for-profit organisations have produced **Action Plans** to manage risks effectively.*

The rate of injury from the use of trampolines in a youth sporting centre, despite upgraded supervision and training, may lead the organisation to drop the activity from its program. Or, an organisation sponsoring a 'fun run' decides to cancel the event unless the appropriate standard of first aid care is available before the run starts.

A school council has a policy on safe play equipment. The council may have developed a procedure to ensure that only safe equipment is purchased and that existing equipment is inspected and maintained. To manage the risk effectively, this procedure needs to be implemented and clearly understood by all those concerned.

Risk avoidance

An organisation decides to avoid the risk altogether by not entering into the activity or providing the service.

Risk avoidance is both the most overlooked and the most misused strategy. Sometimes organisations whose core activities pose minimal and manageable risks, undertake very risky fundraising activities (such as, for example, rodeos, car rallies and air shows). Some activities are so risky that the organisation has to say 'no' and mean it. On the other hand, some organisations have closed down merely because insurance has become too expensive or they have been denied coverage altogether, without looking at some of the options described below for adequately managing or reducing the risks to acceptable levels.

Avoidance may not be an option for activities that form the core of a not-for-profit organisation's existence. In addition, the strategy of complete avoidance may further marginalise and be detrimental to certain groups, such as people with disabilities, and in such circumstances must be carefully considered by some organisations.

Risk control

An organisation decides to continue the activity which creates the risk, but to manage it so that it will be less likely to occur, or will be less damaging when it does occur.

If your organisation can't avoid certain activities, then you must decide what you can do at an economic cost to reduce the risk or to soften the impact of the event if it does happen. Often a combination of the two is possible. This is probably the most used risk management strategy.

Such controls are merely good practice. They include the training that the organisation gives its volunteers and staff, setting minimum qualifications for volunteers and staff, and making policies designed to minimise liabilities arising from the organisation's activities. These management policies must then be recorded, communicated and understood by those who can act to prevent or minimise the liability.

The quality of the board of the volunteer involving organisation can also be important in effective risk control. Having a board of committed, capable and qualified people who offer complementary knowledge and skills in areas such as accounting, law, management and professional expertise appropriate to the organisation's activities is a good risk control measure.

Risk financing

An organisation decides to provide resources to meet the liabilities caused by risks when they eventuate.

This entails estimating the cost of a risk over a period of time and building financial reserves to cover the cost of the eventual liability. It is like a self-insurance scheme. In more complex arrangements, it may involve not-for-profit organisations banding together to finance combined risks in 'insurance pools'. An example of sophisticated not-for-profit risk financing can be seen in some large Australian religious organisations, particularly for their health-related activities.

Risk transfer

An organisation decides to have a third party perform the risky activity, or to transfer the consequences of the risk to another person/organisation.

Most people immediately think about transferring the risk to an insurer. Insurance is available for risks of all kinds, but it is important to insure the right risk at the right price. Insurance brokers and agents can provide very helpful information and advice. Be aware, though, that some see their job as only to sell insurance. If you have any concerns about their advice, have it independently verified.

The kinds of insurance available to volunteer involving organisations as part of their risk management strategies include:

- Volunteer personal accident
- Directors' and Officers' liability
- Professional indemnity
- Public liability
- Motor vehicle insurance
- Building and contents

There are other ways of transferring risk. These include indemnity or exemption from liability clauses, and sub-contracting the activity to an independent contractor.

An **indemnity** is a promise to reimburse another for a loss suffered. In this way, the person receiving the indemnity will not be responsible for a loss which someone might suffer as a result of an act done at the request of the person giving the indemnity. For example, a not-for-profit organisation hires out toys to play groups. A play group may be required to indemnify the not-for-profit organisations for any claims that a 'user' of the toy may have against them. For example, a user may be injured due to a defect in the toy and be able to sue the not-for-profit organisation as well as the play group. If the play group has provided an indemnity they would be required to pay any claims against the not-for-profit organisation in respect of the toy.

An **exemption from liability** clause is a term in a contract which limits or excludes one party's liability. They are common in standard form contracts such as those used when you hire goods or leave your car in a parking station. For example, a car parking contract usually exempts the car park owner from liability arising out of an accident in the car park.

Often a chain of church-operated hospitals will agree to cover the first \$1 million of any claim from their reserves, any further amount of the claim being paid by an insurer. This assumption of risk for the first \$1 million helps them to obtain insurance and can also reduce premiums. Such arrangements require professional assistance because of their complex financial and legal nature.

A childcare centre obtains parental consent for a nearby medical practitioner to administer medication to children. The risk is transferred to the professional medical practitioner. There is less chance of injury given the professional training of the practitioner and, if negligence does cause any injury, it will usually be the burden of the doctor, not the organisation.

STEP

Useful tools for documenting your program

The **Risk Treatment Schedule** at page 47 allows you to list possible and preferred treatment options, their cost-benefits, and the effect they will have on the risk. You can use the **Risk Action Plan** at page 48 to work out how you will implement the organisation's preferred treatment options.

In recent years exemption and indemnity clauses have not been legally very effective, but they still have a role to play in discouraging small claims. Often an exemption clause is used in tandem with an accident insurance policy which can be purchased by a member, parent, participant or client. Such a policy has set entitlements on the happening of a specified event – for example, up to \$2,000 compensation for a broken leg during a football match. While the injured person may be entitled to sue for a greater amount, they accept the accident insurance payout and take the matter no further.

Note that parents cannot readily sign away their child's rights, contrary to the wording that appears on some indemnity forms. Conversely, in the vast majority of circumstances, a child (a person under 18 years) cannot enter into a legally enforceable agreement.

Risk may be transferred by contracting out the particular activity to an independent contractor. The sub-contractor takes on the risk and liability for the particular activity.

There are two issues to remember about risk transfer:

- 1 Although the risk might be transferred by insurance, it does not diminish the overall level of risk. For most not-for-profit organisations, the preferred option would be to prevent the harmful event from occurring. Insurance on its own may not be the most appropriate form of risk management.
- 2 Where risks are transferred to another party, a new risk arises that the risk may not be effectively transferred. An example is an insurance policy that is not honoured by an insurance company because of some legal technicality or insolvency of the insurer. The same may occur with an indemnity.

Does cost of the strategy outweigh the benefit?

For all categories of risk, remember that the risk management process involves a **cost/benefit approach** to the treatment of risks (if the cost of controlling the risk exceeds the benefits from control – reduce control). To give an extreme example, a volunteer working at your organisation's premises could in theory be hit by a meteor. You could eliminate the risk by erecting a protective cage over the building, but only at huge expense. In this case, the risk is very low and the cost of risk management far outweighs the benefit. Other ways of managing the risk could be considered or the risk could be left untreated.

A more typical example is when an organisation buys expensive insurance to cover events that are unlikely to occur or could be more economically dealt with through an alternative strategy or combination of strategies. For example, insuring an organisation for injury to its volunteers when working in a war zone could often be better handled by not having volunteers working in a war zone. Taking out an insurance policy designed for a small for-profit business which includes events that would not affect a not-for-profit organisation, for example, spoiling of food in refrigerators where the not-for-profit does not have a refrigerator, is another common example of cost outweighing any benefit.

Step 4: Implement, Monitor and Review the Program

STEP

Once you or your working group have developed a risk management program, and it has been approved by the board or management committee, the next critical step is to identify who in the organisation will be responsible for implementing it. At the same time, the board or management committee needs to set up a process for periodically monitoring the plan's implementation and its effectiveness.

In addition, your organisation needs to ensure that the program is reviewed at least once a year, but also whenever there are any changes in the law or the organisation's activities. The likelihood and consequences of a risk may also change over time.

An example of a risk management action plan follows. These will differ with the organisational structure of the not-for-profit organisation. Other examples can be found in Case Studies 3, 4 and 5.

RISK ACTION PLAN

RISK: PLAYGROUND EQUIPMENT.

RECOMMENDED RESPONSE: TRANSFER RISK BY INSURANCE, AND MANAGE THE RISK BY PLAYGROUND SAFETY INSPECTIONS, SUPERVISION OF PLAY AND COMPLETE REMOVAL OF DANGEROUS EQUIPMENT.

PROPOSED ACTION: SECRETARY TO SEEK INSURANCE COVER FOR ACCIDENTS IN PLAYGROUND; SECRETARY TO ENGAGE HEALTH AND SAFETY EXPERT TO ASSESS PLAYGROUND SAFETY; VOLUNTEER PARENTS TO SUPERVISE PLAY AT ALL TIMES; PARENT WORKING BEE TO REMOVE OLD SWINGS IMMEDIATELY (AND UNTIL REMOVED, SWINGS TO BE MADE INOPERATIVE, AND WARNING SIGNS POSTED).

RESOURCE REQUIREMENTS: SECRETARY TO BE GIVEN DISCRETION TO ENGAGE PROFESSIONAL ASSISTANCE OF UP TO \$500 TO ACQUIRE A SAFETY INSPECTION AND \$1,000 FOR THE INSURANCE.

RESPONSIBILITIES: SECRETARY OF ASSOCIATION.

TIMING: SAFETY INSPECTION REPORT TO BE DELIVERED WITHIN TWO WEEKS, INSURANCE COVER NOTE WITHIN 24 HOURS, IMMEDIATE REMOVAL OF OLD SWINGS AND IMMEDIATE SUPERVISION OF THE PLAYGROUND.

REPORTING AND MONITORING REQUIRED: MATTER TO BE PUT IN GENERAL BUSINESS ON COMMITTEE MEETING AGENDA UNTIL RESOLVED. ONCE RESOLVED, AN ANNUAL SELF-ASSESSMENT OF PLAYGROUND WILL BE UNDERTAKEN.

PERSON RESPONSIBLE: SECRETARY, MS JANE SMITH

DATE: 1/1/03

REVIEWER: MANAGEMENT COMMITTEE

DATE: EARLY JAN. 2004

Is the program working and what changes are needed?

Risk management programs are successful when they are built into the culture of the organisation. Everyone connected with the organisation is expected to play a part in controlling and minimising risks – it moves beyond being just a board function. New volunteers, board members and employees need to be made aware of risk management as part of their induction, and employees and volunteers should be encouraged to report potentially dangerous equipment, facilities or situations. Education, consultation and communication are essential elements in any implementation and monitoring of a risk management plan.

Risk Identification Toolkit

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The range of risks to be managed by a volunteer involving organisation will depend on its context, activities and specific programs.

Checklist Typical risk areas

Look at all the ways your organisation could suffer a direct loss or become liable for someone else's loss due to:

- real property (real estate) loss
- loss of chattel or contents (eg. through theft or vandalism)
- motor vehicles (owned or used by staff or volunteers)
- glass and signs
- interruption of business or services
- loss of the organisation's records
- loss or corruption of computer records or data
- fraud and theft
- product liability
- public liability
- professional negligence
- negligence in delivery of services
- contractual liabilities
- (failure of) compliance with government grant conditions
- causing a public nuisance, such as excessive noise and activity

Some ways to identify safety risks in the workplace

Conduct an annual safety audit

Hire an independent auditor to inspect the organisation's workplace(s) to evaluate the effectiveness of the occupational health and safety system. This would result in a written report to management.

Make regular workplace inspections

Managers and supervisors use spot-checks to observe what hazards exist. The inspection would involve consultation with supervisors, employees and volunteers, with a report being prepared for management.

Look at accident investigation reports

Develop a set of procedures for investigating and reporting on accidents to identify the hazards that contributed to an accident.

Look at illness and injury records

Keep records of illnesses and injuries: these may reveal underlying occupational health problems over time. Many workplaces also provide agencies responsible for workers compensation with reports and statistics based on claims.

Look at worker and customer complaints

Many workplace hazards are brought to the attention of management through a complaint by an employee, volunteer or client.

Use the **checklists** and **examples** in this section to help you with **Step 1: Identify the Risks.**

Checklist

Common insurance claims made by Volunteers and Volunteer Involving Organisations*

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Think about how susceptible your organisation is to any of these common claims.

**From the claims records of Aon Risk Services Australia Ltd*

Voluntary workers personal accident claims

Most common: trip/slip and fall injuries

Prevention strategy: Reduce or eliminate the risks posed by slippery polished floors, loose floor covering, curbs and stairs.

Common: lifting strains.

Prevention strategy: Manage the risk in lifting wheelchairs and boxes out of car boots, assisting clients who have mobility impairment and shifting heavy objects such as furniture or work materials. Options: volunteer education, manual handling policies and eliminating the risk.

Property claims

Most common: burglary and malicious damage (vandalism) to premises, often during school holidays

Prevention strategy: Improve security via lighting, fencing, locks, alarms and neighbourhood watch activities.

Motor vehicle comprehensive claims

Most common: damage to a car when reversing it out of a confined space

Prevention strategy: Educate drivers to this issue and design carparks to allow forward exit. Some organisations with large fleets encourage their drivers to reverse into a parking bay and to depart by moving forward.

This appears to reduce the incidence of reversing claims.

Common: damage from vandalism while parked or damage by an unknown vehicle/driver

Prevention strategy: Store/garage vehicles in a secure location when not in use (this often means away from your premises).

Committee and board members

Common: unfair dismissal of employees

Prevention strategy: Obtain proper professional advice before terminating a contract of employment.

Professional indemnity

Most common: claims for defamation

Prevention strategy: Risk manage your organisation's newsletters, magazines, internal discipline procedures and media interviews to avoid defamatory statements. Be aware of the law of defamation, adopt publishing and media guidelines for the organisation, and seek professional assistance as appropriate before publishing or speaking to the media.

Checklist

External causes of loss

TOOLKIT

Human perils – actions of an individual or small group. Is your organisation at risk from any of these actions? How can you minimise the damage?

Economic perils – large numbers of people respond to particular conditions. What can your organisation do to minimise the impact of each of these future changes?

Natural perils – forces of nature with no human intervention. You can take steps before and after a natural disaster to reduce its destructive effects. How likely is each of these events? What can you do to minimise or provide for any damage?

- Arson
- Chemical leakage
- Confiscation
- Discrimination
- Electrical overload
- Embezzlement
- Explosion of human origin
- Fire and smoke of human origin
- Harm caused by employees
- Harm caused by volunteers
- Industrial contamination
- Molten materials
- Pollution
- Power outage
- Riot
- Sabotage
- Shrinkage
- Sonic boom
- Terrorism
- Theft, forgery, fraud
- Unfair dismissal
- Vandalism
- Vibration
- Water leakage
- Worker strikes

- Changes in consumer tastes
- Currency fluctuations
- Depression/recession
- Impact of strikes
- Inflation
- Obsolescence
- Political circumstances
- Stock market declines
- Technological advances
- War

- Cave-in
- Collapse
- Drought
- Earthquake
- Erosion
- Evaporation
- Fire of natural origin
- Flood
- Hail
- Humidity extremes
- Ice
- Landslide
- Lightning
- Meteor
- Mildew
- Mould
- Perils of the air (eg. wind sheer and clear air turbulence)
- Perils of the sea (eg. sandbars and reefs)
- Rot
- Rust
- Temperature extremes
- Tides
- Tidal waves
- Uncontrollable vegetation
- Vermin
- Volcanic eruption
- Water
- Weeds
- Wind

Practice self-audit Community centre

This exercise is designed to give you some practice in thinking about, and identifying, potential risks. Imagine the premises of a small community centre that you may have recently visited. You are asked to be part of a working group that has the task of developing a risk management plan for the physical risks associated with these premises.

Either individually or by brainstorming in a group, identify and group individual risks, and appropriate treatments, under the categories below. Try using the **Risk Register** provided on page 46 and apply Steps 2-4 of the risk management planning process (see pages 11-17).

- Equipment purchases
- Equipment supervision
- Outside grounds condition
- Site security
- Dangerous goods and hazardous substances
- Buildings – housekeeping
- Furniture
- Electrical equipment
- Fire safety
- Emergency egress
- Money and valuables
- Maintenance

If there are any other risk headings that you feel should be considered, then include these as well. The following example for 'electrical equipment' is given as guidance.

Electrical Equipment

- 1 Portable equipment and leads tested and tagged
- 2 No broken plugs, sockets or switches
- 3 Safety plugs for unused power points to prevent access by children
- 4 No double adapters or piggy back adapters
- 5 No frayed or damaged leads
- 6 No temporary leads on floor
- 7 No strained leads
- 8 An approved earth leakage circuit breaker/safety switch installed and tested by a qualified electrical contractor
- 9 An adequate electricity surge protector
- 10 Lightning protection
- 11 Electrical switchboards enclosed in non combustible construction and kept free of combustible storage material
- 12 No portable electric heaters in use, should all be fixed clear of combustible material
- 13 External power line access secure and free from obstructions (eg. trees)

An example of one group's work follows. You will probably identify many different concerns and this merely reflects the diversity of activities and contexts of not-for-profit organisations. A community centre that constantly has young children or elderly people on the premises, or that provides facilities for minor medical procedures to be performed may have quite different risks and issues which can be identified.

Sample self-audit Community centre

1 What to look for in Equipment

1.1 Equipment Purchase, Installation and Maintenance

- Does it comply with Australian Standards?
- Is it covered by warranties?
- Does it have adequate installation standards?
- Has it been installed correctly?
- Does playground equipment have trapping points for a child's body, arms, head, clothing etc.?
- Have playgrounds and swimming pools been fenced to Australian Safety Standards?
- Has playground equipment been installed correctly, and over surfaces which are:
 - a) suitable (ie. bark, sand etc.)
 - b) free of sharp objects (ie. glass, stone, wood fragments, metal etc.)?
- Have staff and volunteers been correctly trained in use of equipment?
- Does equipment present slip/fall hazards?
- Is equipment free of damage eg. splinters, loose parts etc.?
- Does it have specific maintenance requirements?

Suggestions

- Retain warranties in a safe place for future reference.
- Carry out maintenance in the specified areas and manner and at the specified frequency.
- Appoint a 'Principal Responsible Person' (PRP) for all maintenance activities.
- Keep a register of maintenance, particularly when carried out by outside personnel.

1.2 Equipment Supervision

- Has training been provided and rules for use of equipment been explained?
- Have all supervisors been trained in 'first aid' procedures?

Suggestions

- Appoint a 'Principal Responsible Person' for supervision/securing away of equipment.

2 What to look for Outside

2.1 Outside Grounds Condition

- Are the grounds free of sharp objects (eg. broken glass, metal, splinters etc.)?
- Do they present any trip or 'fall in' hazards (eg. no open drains etc.)?
- Are they kept free of objects (general equipment etc.)?
- Are areas such as stairs and ramps maintained as 'anti-slip'?
- Are they adequately lit and clearly visible at all times?
- Is the car park:
 - a) free of slipping/tripping hazards, and
 - b) suitable for vehicle use (ie. no potholes, rocks etc.)?

2.2 Site Security

- Are prevention systems (locks, bolts, gates etc.) maintained on all access points?
- Are installed alarm systems utilised and maintained?
- Is the alarm system connected 'back to base' and being monitored by a reputable security company?
- Does the carpark have:
 - a) speed restrictions – clearly marked?
 - b) adequate lighting?
 - c) parking restrictions (zones etc.) -clearly identified?

Suggestions

- Explain access rules, including those covering the carpark, to any potential visitors (eg. contractors) to the site before granting access.

2.3 Dangerous Goods/Hazardous Substances

- Are all hazardous substances stored in an appropriate, securely locked cabinet?
- Is dangerous goods storage segregated according to dangerous goods class?
- Are material safety data sheets (MSDS) kept in a readily accessible place?
- Have staff received adequate instruction and training in the use of hazardous substances and in appropriate safety procedures?

TOOLKIT

3 What to look for Inside

3.1 Buildings – Housekeeping

- Are there procedures to ensure that accidental spills or leakages are immediately cleaned up?
- Are premises free of sharp objects (eg. broken glass, metal, splinters, etc.)?
- Are they free of tripping hazards (eg. torn carpets, cabinets in thoroughfares, etc.)?
- Are aisles and hallways clear and unobstructed?
- Do stairs have 'anti-slip' features where required and are they maintained?
- Is food preparation/serving area clean? Does it have 'anti-slip' features?
- Is it free of electrical cords of any kind?
- Is there a facility hire agreement in place for when the building is hired out for functions (eg. children's parties)?

Suggestion

- Appoint a 'Principal Responsible Person' to monitor, or arrange for the monitoring of, the conditions of use of all electrical equipment in the organisation.

3.2 Furniture

- Is it stable to use and free of sharp edges?
- Can any items present a danger through falling over?
- Can any items be moved to a less safe position without authorisation?
- Is furniture made from materials which will not burn easily?
- Is it painted/covered in materials which are non-toxic and which will not chip/flake or tear, presenting a risk of being swallowed?

Suggestion

- Secure all heavy/moveable furniture (including tables/trolleys etc.) to a suitable wall point .
- Do not store heavy items on moveable furniture. Alternatively, secure them to that furniture to prevent displacement.

3.3 Electrical Equipment

- Are items in use governed by an approved Earth Leakage Circuit Breaker/ life safety cut-out switch, installed by a qualified electrical contractor?
- Are all electrical switchboards enclosed in non-combustible materials and kept out of combustible storage spaces?
- Are switchboards regularly tested/checked by an approved electrical contractor?
- Is electric comfort heating fixed (preferred) or are there portable units in use (not preferred)?

Suggestion

- Have all electrical equipment, particularly any involved in food preparation, tested/checked by an approved electrical contractor on a regular basis.

3.4 Fire Safety

- Is the emergency number for fire prominently displayed near each phone?
- Are fire extinguishers:
 - a) secured in place?
 - b) easily accessible and in designated areas?
 - c) in a condition suitable for immediate use?
 - d) of a type appropriate to the conditions and exposures?

Suggestions

- Have the centre's fire prevention measures regularly inspected by a qualified person.
- Have a qualified person establish the location, number and type of fire extinguishers.
- Have all centre personnel trained in the use of fire extinguishers, etc.

3.5 Emergency Egress

- Are evacuation procedures in place and known to all staff and volunteers?
- Are emergency evacuation and fire drills regularly practised?
- Are exit points unobstructed, are stairs free and clear of tripping hazards, and are handrails secure?
- Can all exit doors be opened from the inside with one hand and without a key?
- Is emergency lighting working, and tested regularly (AS 2293.2 Part 2)?

3.6 Money & Valuables

- Are valuable items (cash, computers, VCRs etc.) kept in a locked/secure area when not in use?
- Is there a register of who holds keys and/or has access to the safe, the cash box, secure areas, and other parts of the building?

Suggestions

- Keep no money on the premises overnight if possible unless in securely locked safe or strong room.
- Ensure cheques are stamped 'Not Negotiable' to prevent fraud.
- Keep petty cash in a lockable container with duplicate receipt book.

3.7 Maintenance

- Do qualified personnel carry out the cleaning and maintenance of:
 - a) heating systems?
 - b) air-conditioning systems?
 - c) electrical systems, including fuses etc.?
 - d) cooking equipment, including hoods, ducts, etc.?
 - e) computer systems?

Suggestions

- Record the dates and results of all system checks, the activities subsequently undertaken and the name/organisation of the personnel completing the checks.
- Appoint a 'Principal Responsible Person' as the liaison for all such checks.

Case Study: 1 The Volunteer Performer and the Ironing Board

Case Study: 1 The Volunteer Performer and the Ironing Board

A not-for-profit touring theatre company was engaged by an arts promoter to perform Emma Celebrazione, a musical play, in over 22 regional venues. The theatre company was paid a flat fee for its performances and the arts promoter kept any profits.

In each regional centre, volunteers were recruited locally to act as extras and as a chorus. Mary was a member of an association which performed and preserved traditional Italian dance. She was invited to be a chorus member by an employee of a regional theatre (not the touring theatre). She came under the direction of the stage manager of the touring theatre company.

Case Study: 2 The Sleeping Board Members

Case Study: 3 The Volunteer Lifesaver and the Dangerous Rubber Duckie

After being in existence for many years, the touring company had become an incorporated association in 1996. It staged professional productions and, as a rule, involved no volunteers in any onstage or backstage capacity. Volunteers usually sold tickets or worked as ushers and did not perform or work on set construction.

Case Study: 4 Volunteer Food Delivery

The cast pressed their costumes using an iron and ironing board owned by the local theatre. They used their own spray-on ironing aid. The ironing board was set up on a highly polished lino floor and some of the spray-on ironing aid had fallen on the floor during ironing. As Mary approached the ironing board, she slipped and fell backwards and sideways. She put her right hand out to break her fall and injured her right wrist.

Case Study: 5 The Annual Christmas Party

Mary sued both the regional theatre and the touring theatre company. The arts promoter was not sued.

The judge found that Mary had slipped on residue from the spray which had reached the floor, and that it was matter of 'commonsense and experience' that some spray was likely to fall on the floor and that it would make the floor slippery.

The judge found that the fact that Mary was a volunteer made no difference to the company's duty of care.

The judge found that the theatre company had a duty to keep the workplace safe, that it had failed to do so, and that there were several things it could easily have done to prevent the accident and the damage. The judge found that the regional theatre management should also have foreseen that there was a risk of the accident happening.

Both the regional theatre and the touring theatre company were ordered to pay damages to compensate Mary for her injury. [Queensland District Court, Case No. 113 of 1999]

The touring theatre company's management was taken by surprise by the judgment for several reasons:

- a) The company did not engage the volunteer, had no opportunity to screen her nor to screen any pre-disposition she may have had to injury.
- b) The venue was provided by the regional Council and the company's only opportunity to inspect the venue was briefly before the accident occurred.
- c) The company had no contractual relationship with either the volunteer or the regional Council. It was the intermediary arts promoter who had contracted with over 22 regional venue providers.
- d) The involvement of volunteers in any aspect of the company's productions was extremely rare. It was also rare for the company not to have full control over all aspects of a production. The company had no adequate processes and policy for transferring and managing unexpected risks in an unknown physical environment over which it had little control.

Outcome

The touring theatre company has addressed the risks highlighted by the incident. In the main it has chosen to avoid the risk – it has not involved any volunteers since in either touring or local productions in a similar capacity.

CASE STUDY

'...the [company] owed [Mary] the same **duty of care** that it would have owed had it paid her... she was in the **same position** as an **employee.**'

Case Study: 2 The Sleeping Board Members

The National Safety Council Victoria Division (NSC) was a company limited by guarantee incorporated in 1928. It was formed by a coalition of Victorian not-for-profit agencies with the charitable object of promoting safety awareness, particularly industrial safety. Membership of the company was open to all willing to subscribe to the constitution and pay an annual subscription of one guinea. Members of the company guaranteed to each pay one guinea (\$2.10) if the company was wound up and unable to pay its debts. All members had an equal vote to elect a council of five members and 42 specified organisations had the right to appoint a representative to the council. The specified organisations included a range of government agencies (police, fire service, railways) and not-for-profit organisations such as chambers of commerce, car clubs, trades unions and some private companies (eg. Ford). The Council appointed an executive committee consisting of a President and representatives from 14 named associations.

The NSC carried out safety awareness programs which initially emphasised the workplace, but expanded to road and leisure activities. It was funded through government grants and industry contributions, relying on volunteers to perform most of its functions. In 1962 the Council fostered the establishment of similar organisations in the other states of Australia which became separate corporate entities. It was at this time that the NSC began to conduct a safety service to industry, specialising in on-site training and safety auditing. In 1979 it purchased a fire tender and began to develop emergency services.

In 1982 under the charismatic leadership of its chief executive, John Friedrich, the organisation expanded into providing unusual forms of search and rescue. Its expansion was funded through commercial loans from financial institutions. The loans were secured against rescue equipment contained in sealed containers as arranged by the CEO. Most containers were empty and so the security was illusory, and the loans obtained fraudulently. The accounts of the organisation were also tampered with to show a better position, often in the form of illusory debtors. There is also a suggestion that auditor's reports qualifying the accounts were tampered with by the chief executive before being presented to the board and lenders.

Over a number of years the popular press signaled the possibility of a fraud. These articles later proved to have been fairly accurate. As early as 1986 the *Bairnsdale Advertiser*, a local paper, outlined extensive misgivings about the financial status of the NSC, while in August 1988 Channel 10's *Page One* expressed concerns about the Council and its operations. A large feature article in the *Sydney Sun Herald* by Wendy Bacon in October 1988 noted that the company's accounts were puzzling, it was unaccountable to the public, and discrepancies existed between equipment purchased and income received.

The matter was brought to a head when the board requested an independent financial assessment and the chief executive fled. The company was placed into liquidation owing about three hundred million dollars.

The trial judge found that the company had been insolvent for nearly five years and that this could have been 'fairly easily appreciated by an adult person of normal intelligence who had a general knowledge of the company's activities and an inclination to consider the accounts and auditor's report for half an hour.'

Some other findings of the judge were:

- out of 18 board meetings held in one period, at 11 meetings there were no accounts of any kind provided or discussed;
- in another period, apart from the annual accounts, no accounts had been discussed at a board meeting for almost a year;
- no annual meeting was held in one year;
- copies of accounts and reports were not sent to members before annual meetings;
- no financial controller was appointed as required by the company's constitution; and
- the CEO was not properly supervised or monitored by the board.

The directors were sued in the civil courts for debts incurred whilst the company was insolvent. A settlement was negotiated with all directors except the chairman of the company. The chairman was found liable to pay some \$97 million to creditors. The executive officer faced several serious criminal charges but committed suicide on the eve of the trial. The auditors were sued by the liquidator, who claimed professional negligence in the sum of \$256 million. Again the matter settled out of court. It was reported that the auditors settled for \$2 million without admitting liability.

As well as managing risks responsibly, committee members and boards may need to ensure that there is an appropriate legal compliance plan in place to ensure absolute compliance with the law such as timely production of annual accounts and reports, attention to scrutinising annual accounts and monitoring the activities of senior staff and the organisation generally.

For further information about this case, see *Commonwealth Bank of Australia v Friedrich* (1991) 9 ACLC 946; 5 ACSR 115, and M. McGregor-Lowndes, 'Not-for-profit Corporations – Reflections on Australia's Largest Not-for-profit Insolvency', *Australian Journal of Corporate Law*, Vol. 5, No. 4, 1995, pp. 417-441.

Volunteer committee members and directors have the same duties and responsibilities as paid directors and face similar consequences for defaults. These risks must be managed responsibly.

Volunteers form the backbone of the lifesaving movement and it is important that they are **free from unacceptable risks** and being party to litigation.

Case Study: 3 The Volunteer Lifesaver and the Dangerous Rubber Duckie

Surf Life Saving Queensland (SLSQ) is a not-for-profit association assisting Queensland Surf Life Saving Club branches, and is also a member of the National Surf Life Saving Association.

Like many other not-for-profit organisations, the association and its branches have been under pressure from the public liability insurance crisis. This is highlighted by a number of recent public cases where injured surfers are suing rescue authorities.

Research to identify its risks found that 40% of all insurance claims in recent years were for injuries to members caused by the use or inappropriate design of inflatable rescue boats (IRBs). The association realised that it would be at risk in a number of ways if it did not deal with the IRB problem.

Managing the risks posed by the IRBs was clearly a priority for the organisation. A committee worked through a risk register and risk treatment schedule and prepared a risk action plan (see the following pages) which is being implemented. The plan will develop over time as new national risk management strategies become approved.

Risk Register

FUNCTION/ACTIVITY *Use of Inflatable Rescue Boats (IRBs)*

COMPILED BY
REVIEWED BY

DATE
DATE

THE RISKS – WHAT CAN HAPPEN AND HOW	CONSEQUENCES OF AN EVENT HAPPENING		ADEQUACY OF EXISTING CONTROLS	CONSEQUENCE RATING	LIKELIHOOD RATING	RISK RATING
	CONSEQUENCES	LIKELIHOOD				
<i>Physical safety and welfare of members</i>	<i>Personal injury</i>	<i>High</i>	<i>Not considered adequate – state, local and national approach required</i>	<i>High</i>	<i>High</i>	<i>High</i>
<i>Financial loss to the body from claims by members for foot and knee injuries and more serious outcomes</i>	<i>Financial</i>	<i>Medium/High</i>	<i>As above</i>	<i>High</i>	<i>High</i>	<i>High</i>
<i>Reputational damage – damage to key sponsorships and relationships with funding bodies and the ability to attract and retain members</i>	<i>Financial and loss of public trust</i>	<i>High</i>	<i>As above</i>	<i>High</i>	<i>High</i>	<i>High</i>
<i>Personal financial and reputational risk to committee members and senior management</i>	<i>Harm to reputation of members. Leading members of business community of board could also suffer</i>	<i>High</i>	<i>Directors' & Officers' insurance policies in place, but expensive.</i>	<i>High</i>	<i>High</i>	<i>High</i>
<i>Insurance risk – events and competitions may become uninsurable and ongoing workers compensation increase in cost</i>	<i>Insurance coverage becoming dependent upon appropriate risk management strategies in place. Higher cost or unavailable.</i>	<i>High/Medium</i>	<i>Insurance unaffordable where risk not properly managed.</i>	<i>High</i>	<i>High</i>	<i>High</i>

Risk Treatment Schedule and Plan

FUNCTION/ACTIVITY Use of Inflatable Rescue Boats (IRBs)		COMPILED BY	DATE	REVIEWED BY	DATE		
RISKS IN PRIORITY ORDER (FROM RISK REGISTER)	TREATMENT OPTIONS	PREFERRED OPTIONS	RISK RATING AFTER TREATMENT	COST/BENEFIT ANALYSIS RESULT (ACCEPT/REJECT)	PERSON RESPONSIBLE FOR IMPLEMENTATION	TIMETABLE FOR IMPLEMENTATION	HOW TO MONITOR THE RISK AND THE TREATMENT OPTIONS
Physical safety and welfare of members	Avoid/ Manage risk	Avoid risk for events	Low	Accept	CEO	Immediately	Workplace Committee and IRB Committee
As above	As above	Manage risk for operational rescues	Medium	Accept	CEO	Ongoing	As above
Financial loss to the body from claims by members	Manage risk	Reduce incidence of injuries by: i) Improve training; ii) Change awards structure to reward safety aspects of competition; iii) Change qualifications to operate IRBs – new Crewperson Certificate; iv) Change event rules – no modified craft to be allowed; v) Change design of craft – new twin hull currently being designed.	Medium	Accept	CEO	Immediately Ongoing	Workplace Committee and IRB Committee
Reputational damage (affecting sponsorships, funding, membership)	Manage risk	Media liaison person and use of website and materials to show community that action is being taken	Medium	Accept	CEO	Ongoing	Risk Management Subcommittee/Workplace Committee
Personal financial and reputational risk to committee members and senior management	Manage risk	Ensure Directors' and Officers' coverage is as complete as possible; board to closely scrutinise risk	Medium	Accept	CEO/Board	Ongoing	Risk Management Subcommittee/Workplace Committee
Insurance risk – increased cost and/or loss of cover	Manage risk	Negotiations and close relationship with insurer	Medium	Accept	CEO/Board	Ongoing	Risk Management Subcommittee/Workplace Committee

Risk Action Plan

FUNCTION/ACTIVITY	Use of Inflatable Rescue Boats (IRBs)	PERSON RESPONSIBLE	CEO	DATE	
REVIEWED BY	Workplace Injuries Management Team and Australian IRB Review Committee			DATE	

RISK	PROPOSED ACTIONS
Injuries to members and volunteers when using inflatable rescue boats (IRBs) in events and rescues	<p>a) Establish a state-based Workplace Injuries Management Team which holds regular meetings to review workplace issues, and take out Workcover for members;</p> <p>b) Establish Australian IRB Review Committee – also an ethics committee has sent out people to watch how IRBs are used and operated;</p> <p>c) Outcomes:</p> <p>i) Improve training;</p> <p>ii) Change awards structure to reward safety aspects of competition;</p> <p>iii) Change qualifications to operate IRBs – new reaccreditation structure with establishment of Crewperson’s Certificate;</p> <p>iv) Changes to how events are run with modified rules – no modified craft are to be allowed;</p> <p>v) Major changes underway to design of craft – new twin hull craft currently being designed.</p> <p>d) The outcome of the review has been to avoid the risk by banning IRBs for national competitive IRB racing until all states come up to the new standards but managing the risk for rescues as there is currently no alternative to the IRBs. Thus, IRBs are still used for operations;</p> <p>e) All state bodies to report details of any injuries on standard forms for consistent and efficient collection and input of data;</p> <p>f) Appoint media liaison person and use of website and materials to show community that action is being taken;</p> <p>g) Negotiate and maintain close relationship with insurer</p>
RECOMMENDED RESPONSE AND IMPACT	
a) avoid the risk for events until Australia-wide risk management strategies put in place	
b) manage the risk for rescues as there are currently no acceptable alternatives to IRBs	
c) seek a national approach with common standards across Australia	
RESOURCE REQUIREMENTS	
To be calculated	
RESPONSIBILITIES	
CEO	
TIMING	
As a priority	
REPORTING AND MONITORING REQUIRED	
CEO to Workplace Injuries Management Team	
Local branches to report on standard form to CEO of State body	

Where patrons' **welfare** is at risk, the risk cannot be left untreated.

Case Study: 4 Volunteer Food Delivery

Meals on Wheels delivers pre-packed meals at home to the elderly and in some cases to the disabled. Deliveries are made by volunteers using their own vehicles.

There are many associated risks, including those involving cars (accidents) and food preparation (cuts, burns, lifting strains). There is also the risk of injury to patrons if the food is not prepared, stored, transported and then consumed or stored appropriately. Food Standards Australia and New Zealand estimate that there are 7 million cases of food poisoning annually in Australia. The consequences of food poisoning for frail, elderly or disabled patrons of Meals on Wheels could be very serious.

Risks also arise when the patron is not at home when the meal is actually delivered.

- 1 If the meal is left outside the door, it could be tampered with by animals or other people.
- 2 Danger posed by heated granite plates left by drivers to keep food hot. Heated granite plates are used in eskies to ensure food is delivered at correct temperature. Volunteers have protective holders to avoid burns.
- 3 It is not acceptable to leave food with neighbours without having arranged this with the patron or vetted and instructed the neighbours beforehand. Transfer of such a risk to neighbours without their knowledge or consent is inappropriate. Entering a neighbour's premises without permission has hazards, such as dog attacks.
- 4 Some patrons require special foods (for example, they are diabetic or allergic to certain foods). The normal risk management procedure is for the deliverer to check with the patron that the correct food is being delivered. This cannot be done if the patron is not present.

Here is how one Meals on Wheels unit has begun to deal with the specific issue of patrons not being present at the delivery of meals.

Risk Treatment Schedule and Plan

FUNCTION/ACTIVITY *Delivery of Food to the Elderly and Disabled when Patron absent* COMPILED BY _____ DATE _____

REVIEWED BY _____ DATE _____

RISKS IN PRIORITY ORDER (FROM RISK REGISTER)	TREATMENT OPTIONS	PREFERRED OPTIONS	RISK RATING AFTER TREATMENT	COST/BENEFIT ANALYSIS RESULT (ACCEPT/REJECT)	PERSON RESPONSIBLE FOR IMPLEMENTATION	TIMETABLE FOR IMPLEMENTATION	HOW TO MONITOR THE RISK AND THE TREATMENT OPTIONS
Possibility of animals or other humans tampering with food	Avoid risk/ Manage risk	Avoid risk	High	Reject	Manager	Immediately	Manager reporting to management committee
If drivers leave food with neighbours - food quality not assured - unacceptable to transfer risk to neighbours without their knowledge or consent	Avoid risk/ Manage risk	Avoid risk – cease activity	Low	Reject	Manager	Immediately	Manager reporting to management committee
Danger posed by heated granite plates left by drivers to keep food hot	Avoid risk/ Manage risk	Use other containers that can be used in the absence of volunteers or cold foods	Low	Accept	Manager	Immediately	Manager reporting to management committee
If food or recipient incorrectly named: - patron cannot correct at time of delivery, food wasted, cost incurred of return and replacement	Avoid risk/ Manage risk	Manage risk – patron to collect before or after the designated time – must advise the Center if going to be away or client still pays		Accept	Manager	Immediately	Manager reporting to management committee
- patron may be harmed by consuming wrong food eg. those with diabetes or allergies	Avoid risk/ Manage risk	Ensure delivery staff are trained and volunteers in the kitchen are aware of and follow processes		Accept	Manager	Immediately	Manager reporting to management committee
Continue packaging and delivering food – risk of breach of legislative requirements for food safety	Manage risk	Ensure containers comply with workplace health and safety legislation. Ensure volunteers and staff trained, policies in place and processes adapted promptly to minimise risks	Low	Accept	Manager	Immediately	Manager reporting to management committee

Risk Action Plan

FUNCTION/ACTIVITY	Delivery of Food to the Elderly and Disabled when Patron absent	PERSON RESPONSIBLE	Manager	DATE	
		REVIEWED BY	Sub-committee or management committee	DATE	

RISK	Food quality cannot be assured when food left at premises in the absence of patron
RECOMMENDED RESPONSE AND IMPACT	Avoid the risk unless satisfactory risk management strategies are in place and accepted by patrons
RESOURCE REQUIREMENTS	<ul style="list-style-type: none"> a) Food wastage to be minimised b) Paid staff to assist drivers with process c) Management time to train drivers and staff d) Creation of written material for patrons and staff promoting the policies and procedures
RESPONSIBILITIES	Manager to oversee processes are followed
TIMING	To be implemented immediately
REPORTING AND MONITORING REQUIRED	<ul style="list-style-type: none"> a) Manager to report to management committee b) Sub-committee to be established to focus on reporting of risk incidents and risk management issues and to report to the board c) Risk management day
PROPOSED ACTIONS	<ul style="list-style-type: none"> a) No meals to be left outside the patron's home if they are not at home (even if an esky is provided); patron to pay if no one is at home to receive food; all undelivered food to be returned to the kitchen. b) Meals only to be left with neighbours by prior arrangement and only if neighbours know of and have accepted risks and there is no reason to suspect that the neighbour is unreliable – to transfer risk may be unethical practice and insurance may not cover any breach of duty in these circumstances. c) Patrons to make prior arrangement for collection of meal from the kitchen of the association earlier in the day, or after normal delivery time. d) Arrange for the delivery of an extra meal on the day before (only if previously negotiated and if practicable e.g. if food spoilage is not an issue) but ensure the patron places the meal in the fridge/freezer and record that this has occurred. e) Delivery volunteers to leave a note in patron's absence confirming the meal is at the kitchen for collection. Choose limited range of meals that are less susceptible to risk than a freshly cooked meal (e.g. if left out of fridge) such as cheeses and biscuits/prepackaged food. f) Ensure consistent mentoring of drivers as to their responsibilities by inductions and standards and proper screening of background of drivers; g) Create customised service delivery standards, but rationalise when relevant state or national standards on service delivery are developed. <p>continued next page</p>

PROPOSED ACTIONS CONTINUED

- h) Inductions and formal training at regular times. Development of consistent training materials and trainers. Ensure competencies appropriately assessed after training workshops – certificates given. Training and change management options:*
 - Online assessment – multiple choice questions – done at volunteer’s own time – computer access at body or library or state offices if volunteer does not have computer access – in 15-minute segments;*
 - Raise awareness and get/buy in from staff – hold ‘Food quality and service delivery’ competitions – compete with other area bodies – gain media publicity;*
 - Simulations of best practice – state body to create videos on ‘dos’ and ‘don’ts’;*
 - State body to post best practice guidelines in checklist format on website – get up constituent model – membership of state body and issues with having to abide with national standards – rewards for compliance – recognitions, more funding to local bodies to reach state or national standards;*
 - Obtain patron feedback on what is good and bad – systematic collection of data – feedback sheet with each meal – to be collected at subsequent collections – very simple forms – don’t just rely on anecdotal evidence and then adapt system and processes;*
 - Undertake regular spot audits on drivers compliance with guide lines;*
 - Driver sign off and tick checklist that all procedures followed after every run. Records management to collate and act on these sheets and suggestions from patrons and drivers to improve the system.*

Case Study: 5

The Annual Christmas Party

A not-for-profit association ('the Centre') provides teaching and other services for hearing-impaired children and support for their parents.

Each year the Centre holds a Christmas party for the children enrolled. Parents, volunteers, staff, board members, and management are invited, and parents usually bring along others who have not been specifically invited. This year approximately 30 children, ranging in age from 2 to 6 years, and 20 adults will be present. Father Christmas will arrive by prime mover, which is being provided by a sponsor and driven by a sponsor's employee.

The prime mover will be parked in the adjacent carpark outside the fenced playground area of the Centre. The cabin is quite high off the ground and the exhaust pipe will be very hot and near where children will climb onto the machine. Parents will be asked to supervise but a staff member will also be present, and the driver of the prime mover will remain in the cabin throughout the activity. The carpark is near the roadway and traffic presents a greater than usual risk for many hearing-impaired children.

There will be not be enough staff to monitor every aspect of the function closely. Children may be stressed by the heat and the unusually large crowd. Children with hearing aids could also be at risk from the resultant high noise levels, which may be amplified by the hard surfaces inside the building.

Some of the people attending, although well meaning, may behave inappropriately and in ways that could unsettle the children and parents. In addition, staff supervising children may be distracted by parents who want in-depth discussions of their children's progress. Parents can become emotional and distressed during interviews and privacy and confidentiality cannot be assured at the event.

Clearly, various aspects of the event present risks, although they are all of low likelihood. However, if problems do arise, they could have a major impact on the Centre.

A once-a-year event, outside the organisations usual routines, can present new risks that need to be specifically managed.

Risk Treatment Schedule and Plan

FUNCTION/ACTIVITY *Children's Christmas Party*

COMPILED BY

DATE

REVIEWED BY

DATE

RISKS IN PRIORITY ORDER (FROM RISK REGISTER)	TREATMENT OPTIONS	PREFERRED OPTIONS	RISK RATING AFTER TREATMENT	COST/BENEFIT ANALYSIS RESULT (ACCEPT/REJECT)	PERSON RESPONSIBLE FOR IMPLEMENTATION	TIMETABLE FOR IMPLEMENTATION	HOW TO MONITOR THE RISK AND THE TREATMENT OPTIONS
Injury caused by: - children climbing onto heavy machinery - hearing impaired children running onto the road	Avoid or manage risk	No heavy machinery, or close monitoring by staff, parents and sponsor. Check machinery for dangerous parts before and after it arrives	Medium/Low	Accept	Senior staff member and sponsor	Before next Christmas party	Submit plan to Sub- committee listing all tasks, attendant risks and how they will be addressed. Item for risk planning day.
Allowing non-parents to attend at party – inappropriate behaviour of some volunteers/visitors on the day	Avoid or manage risk	By making clear expectations and screening all attendees and by staff being aware of behaviours	Low	Accept	Senior management	As above	Senior management to closely monitor information given to parents and others. Item for risk planning day.
Parents wishing to discuss issues at the event	Manage risk	By making clear expectations of parents and reasons behind Centre policy	Medium/High	Reject	Senior management	As above	As above
Staff injured while helping children to climb onto truck	Avoid, manage or transfer risk	All staff briefed on responsibilities to others on the day. Consider more guidance on staff safety. Check insurance cover and legislative compliance.	Low	Accept	Senior management	As above	Submit plan to Sub- committee listing all tasks, attendant risks and how they will be addressed. Item for risk planning day.
Children made sick by eating inappropriate food (eg. heavily spiced). Parents and staff upset	Manage risk	Staff members and parents to be allocated responsibility to ensure appropriate food goes to children and parents	Low	Accept	Staff member and parent	As above	As above

Risk Action Plan

FUNCTION/ACTIVITY *Children's Christmas Party* PERSON RESPONSIBLE *Senior manager* DATE _____
 REVIEWED BY *Corporate Governance and Risk Management* DATE _____
Sub-Committee

RISK	PROPOSED ACTIONS
<p><i>Physical safety and comfort of children, especially children with hearing aids; may be at risk because of overcrowding of venue and increased noise levels and sometimes misguided actions of guests.</i></p>	<ul style="list-style-type: none"> - Send invitations to invitees and state that any other persons who wish to attend must first seek permission of the Centre and be recorded in the Centre's records. Clear guidelines for invitees should be stated in the invitation. - Put disclaimer on invitation that all parents must take responsibility to monitor their children and what they eat at the party. - If heavy machinery will be at the Centre, require a consent form to be signed by all parents before their children are allowed to go on the machinery, stating that the parents will accompany them and ensure that a staff member will be present at all times. If the machinery has parts that pose an unacceptable risk, then do not utilise heavy machinery in future. On the invitation insert a disclaimer as to negligence as far as permitted by law. - Confirm in writing the sharing of liability of the Centre and the sponsor who supplied the machinery and the driver, regarding liability and insurance cover should any injury be occasioned to any child or staff member or the driver from the children climbing onto or into the machine. - Consider alternate venues if noise levels are uncomfortably high or the heat is uncomfortable for the children. - Appoint staff member to be responsible for appropriateness of food (eg. no hot spicy food on plates for the very young) and general activities in the kitchen (to ensure safety in the kitchen area).
RECOMMENDED RESPONSE AND IMPACT	
<p><i>Avoid the risk – do not have heavy machinery at the party – low impact; avoid having the party inside at the Centre where the surfaces increase the level of noise and move to the outside area or to another venue – low impact.</i></p>	
<p><i>Manage the risk – introduce strategies to minimise risk to children's comfort and hearing whilst managing volunteers' expectations, strategies to clarify support required of parents and expectations of staff at the event – low impact.</i></p>	
<p><i>Transfer the risk – ensure insurance cover is adequate to cover any physical injuries; consider sharing or transferring risk when appropriate for injury occasioned by the heavy machinery. May not be appropriate and thus, consider if risk is unacceptably high, to avoid the risk and not have heavy machinery at the party – high impact if no cover.</i></p>	
RESOURCE REQUIREMENTS	
<p><i>a) ensure staff are all in attendance and well briefed on areas of risk and strategies and roles of staff to monitor and minimise risk. It may well be unrealistic and inappropriate to attempt to transfer risk to parents to monitor children effectively.</i></p>	
<p><i>b) parking attendants to assist with parking of cars in the vicinity of the event. When children go outside for activities, staff and parents to ensure their safety at all times by not allowing any parking of cars in the carpark and the location of the prime mover.</i></p>	
<p><i>c) ensure that external suppliers (e.g. an entertainer or the sponsor) are involved in the planning process and are aware of their responsibilities on the day.</i></p>	
continued next page	

Risk Action Plan continued

RESPONSIBILITIES

- a) prepare and circulate an agenda which states the order of activities at the party and to minimize the period of time during which the children may climb onto the machine.*
- b) wait sufficient time between when the machine arrives and when the children climb on board and ensure the machine is inspected both before the machine arrives at the party but also afterward, and that there are no exposed or dangerous parts.*

TIMING

REPORTING AND MONITORING REQUIRED

- a) at the end of the event, conduct a 'debrief' of the activities on the day and be frank and constructive in drawing out issues that should be addressed. Have the chair or another member of the board conduct the debrief.*
- b) annual risk planning day, risk assessment should be undertaken of all major events and operations – involve all key stakeholders and be facilitated by a risk management expert if possible.*
- c) the person/s responsible for the event to submit a plan prior to the event to the Corporate Governance and Risk Management Sub-Committee outlining all activities, key risks and how those risks are to be managed – the Sub-Committee to report on any unusual or high risks to the board, should the need arise and table plan for the benefit of all board members.*



Glossary

Avoidance

A method of lowering risk exposure by not doing the risky activity.

Consequence

The outcome of an event expressed as a figure (10%), bringing a loss, injury, disadvantage or gain. There may be a range of possible outcomes associated with an event.

Defamation

Generally a defamatory statement may be described as one which exposes the defamed person to hatred, contempt, ridicule, or which tends to lower the aggrieved person in the estimation of other people or which injures him or her in their profession or calling or which causes him or her to be shunned or avoided.

Defendant

Individual or organisation against whom a legal action has been brought. In a civil action the defendant may be called the respondent.

Evaluation of risk

The term for estimating level of risk and/or for setting priorities on the ways in which future risk can be managed.

Indemnify

A promise to reimburse another for a loss suffered.

Insurance

A contract whereby an organisation agrees to indemnify another and to pay a specified amount upon determinable contingencies in exchange for a premium (price paid). An example of risk transfer.

Legal compliance plan

A legal compliance plan manages the organisation's, individual board member's and management's exposure to breaching the law. A compliance plan differs from a risk management plan in that the system is designed to completely eliminate breaches of the law. Measures to prevent a breach occurring cannot be compromised on the basis of cost.

Liability

Any enforceable legal obligation.

Likelihood

The term used as a qualitative description of probability or frequency of an event/risk happening.

Negligence

Falling below the duty of care owed to another resulting in their injury. For example, failure to keep visitors to your offices safe from harm by tripping over unsafe floor coverings or giving incorrect advice to clients who suffer injury through reliance on such information. The duty of care of an individual or an organisation is decided by the Courts and involves taking reasonable care not to cause harm to other persons.

Officer

Individual who has a management position within an organisation. Depending on the context it may include board or committee members and senior managers (paid or volunteer).

Plaintiff

An individual or organisation that initiates a lawsuit to obtain a remedy for an injury.

Probability

The likelihood of a specific event or outcome, measured as the ratio of specific events or outcomes to the total number of possible events or outcomes.

Risk

Risk is a measure of the possibility that the future may be different from what is expected.

Risk management

The strategic planning process of managing an organisation's potential exposure to liabilities, by preventing or minimising them, and/or by providing for funds to meet the liability if it occurs. The process has 4 steps: identify risks; evaluate risks; design a management program; and implement and review the program.

Tort

The area of law dealing with civil, as opposed to criminal, wrongs, arising outside the field of contract. For example, the type of legal action an elderly citizen would bring against the driver of a car that ran them down on a well-lit pedestrian crossing.

Vicarious liability

Liability imposed on a person or organisation for the acts, defaults or omissions of persons serving on its behalf. Vicarious liability can be imposed even if the individual or organisation is not directly involved. The liability of one party is imposed on another.

Volunteering

An activity that takes place in not-for-profit organisations or projects and is undertaken to be: of benefit to the community and the volunteer; of the volunteer's own free will and without coercion; for no financial payment; and in designated volunteer positions only.

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