

RUNNING THE RISK?

RISK MANAGEMENT TOOL FOR
VOLUNTEER INVOLVING ORGANISATIONS

*THIS IS AN EXTRACT ONLY.
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facs 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.

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.

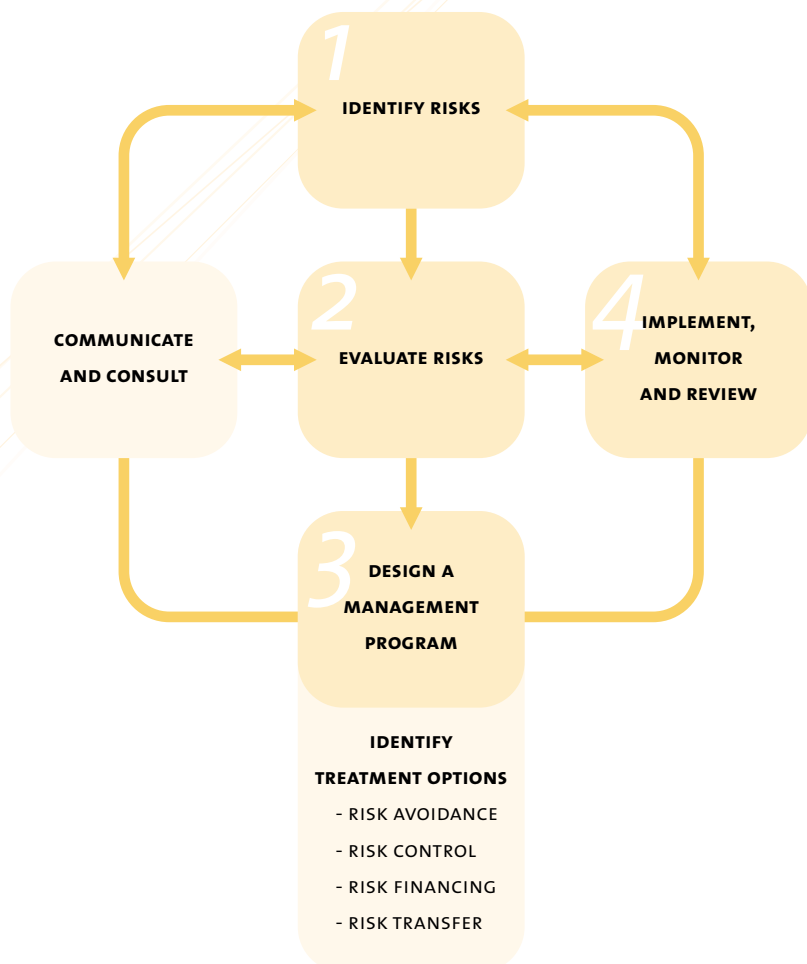
Not-for-profit organisations with links to state and federal bodies may be able to seek help from those organisations. Peak bodies of churches, service clubs, sporting codes and other interest groups can often also provide member organisations with information on common issues that will help them formulate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