

Insurance Issues Involving Volunteers for Churches and Charities

Insurance Issues



ROBERTSON  HALL
INSURANCE



Volunteer Insurance Issues



- Volunteerism and Charitable Work
- The Legal Perspective: Cheap Employees or Legal Agents?
- The Organization's Perspective: Empowering Volunteers Safely
- The Volunteer's Perspective: How Am I Protected?
- An Insurance Checklist for Your Organization and Volunteers
- Other Volunteer Risk Management Considerations
- A Final Caution

Doing Good Work in Communities We Serve

*At the heart of most
charitable work is the
spirit of volunteerism*



vol·un·teer

A definition from the
Cambridge Dictionary



- volunteer
- noun [C]
- a person who does something, especially helping other people, willingly and without being forced or paid to do it:

"Volunteers are unpaid – not because they are worthless, but because they are priceless"



- Successful organizations including churches, faith charities, community organizations, and special purpose charities know how to **attract, motivate, manage, and protect** volunteers
- Healthy volunteerism is a two-way relationship that values both the charitable purpose in serving others and the volunteer
- The variety of roles filled by volunteers is as diverse as the number of not-for-profit and charitable organizations in existence, from the board room, to the mail room, to the streets, to overseas; and can include the young or old, the unskilled and inexperienced or the professional

The Legal Perspective



To the Charity

- Valued but essentially just "Cheap Employees" carrying out work that would otherwise require the expenditure of donor dollars for paid workers

In Law

- Legal Agents of organization, like employees, management, and directors
- Appointing a volunteer is like handing "keys to the Cadillac" to the valet in the parking lot in terms of damages from their negligence and your vicarious legal liability that can cause reputational harm, result in lawsuits against directors, and jeopardize a charity's assets
- Potential source of various tort, employment practices, workplace safety obligations and liability for their injury, harm or maltreatment

The Organization's Perspective



How do we empower our volunteers effectively, responsibly and safely?

- *So that they are not harmed?*
- *So their negligence doesn't land us in court?*
- *So they don't harm our charitable work and reputation?*

The Volunteer's Perspective



How am I protected?

- *If injured, due to the organization's negligence, or because of my own fault?*
- *If I am sued, or included as a defendant in a lawsuit while acting within the scope of my duties for the organization?*

Insurance Checklist for Organization



Must Haves:

- A General Liability Insurance Policy containing a minimum \$5,000,000 coverage amount per occurrence, including:
 - "Volunteers" as *Additional Named Insureds*, to provide them with coverage if named in a lawsuit and for personal legal defense costs
 - Coverage Territory for on- and off-premises activities, including Worldwide
 - Non-Owned Automobile Liability to cover organization's potential liability for use of personal owned vehicles
 - Voluntary Medical Payments Rider
 - Abuse Liability coverage, including criminal defense cost reimbursement for wrongful accusation against workers
 - Incidental Medical Malpractice to cover Good Samaritan acts
- An Umbrella Liability Policy to provide excess coverage, over and above your General Liability Policy and Auto Insurance Policy coverage limits

Insurance Checklist for Organization

continued



- Non-Profit Directors and Officers Liability Insurance Policy with a minimum \$2,000,000 coverage amount per claim, including
 - Volunteers as Additional Named Insureds while serving on committees and/or acting at the direction of the board, including for civil liability awards, settlements and/or defense costs
 - Employment Practices Liability coverage including with respect to non-paid workers being terminated, and for actual or alleged humiliation, harassment and discrimination in a civil suit
YES, volunteers have sued for termination reputational damages!
 - Coverage for defense of actions related to boards of inquiry or administrative tribunals (e.g., Human Rights Tribunals)*

*Note: Generally speaking, fines, penalties and monetary judgments in a human rights proceeding are not insurable, however defense costs may be covered in some policies.

Insurance Checklist for Organization

continued



- A Group Accident Policy to provide coverage for injuries and expenses incurred by volunteers carrying out work on behalf of the organization in “no-fault” situations (i.e. organization not negligent), including:
 - Reimbursement of Medical Expenses
 - Reimbursement of Dental Expenses
 - Accident Loss of Income / Weekly Indemnity
- Mandatory individual or group Emergency Travel Medical Insurance for activities and trips out-of-province or out-of-country, for staff and volunteers

Insurance Checklist for The Volunteer



- Mirrors the organization’s “must have” checklist in many respects
- Reflects legitimate concerns of a conscientious volunteer, the kind of volunteer your organization should want to have representing it to the communities you serve, the kind you want to recruit and keep:
- *If asked to serve as a volunteer, I would want to know the following coverage has been arranged by the organization for my protection:*
 - General Liability and Directors and Officers (aka D&O) Liability Insurance, including “Volunteers” as Additional Named Insureds
 - Abuse Liability coverage including criminal defense cost reimbursement for wrongful accusation against volunteer workers
 - Incidental Medical Malpractice coverage for Good Samaritan acts
 - No-Fault Group Accident Insurance for volunteers, especially those performing physical labour on behalf of organization
 - Emergency Travel Medical Insurance for travel by volunteers, including on short-term mission trips

Insurance Checklist for The Volunteer

continued



- *If serving as a volunteer, I would also want to be given useful insurance tips by the sponsoring organization for my own protection, including:*

- Checking with my insurance broker or agent to ensure that the usage of my personal vehicle on behalf of the church, charity, or not-for-profit - including the transportation of passengers - is allowed and will not result in the denial or limitation of coverage in an accident or claim

Note: As the registered vehicle owner in law, I will always have the primary liability risk for any claims resulting from the use of my vehicle, regardless of who is driving, regardless of what purpose for which it is being operated, and regardless of what insurance coverage the sponsoring organization may have.

Other Risk Management Considerations



Other Risk Management Considerations



- Implementing and maintaining a formal **abuse prevention policy**, procedures and screening for ALL volunteers working with minors and vulnerable adults, including:
 - Targeted, selective recruitment vs. “take all comers”
 - Completed and signed volunteer applications
 - Criminal record checks (including VSV’s for vulnerable sector)
 - Effective supervision and oversight, including a two-adult rule for on- or off-premises programs and events, and for operations outside of Canada including short-term mission trips

The above are REQUIRED by the handful of remaining insurers still providing abuse liability coverage for churches and charities

REMEMBER: *Effective abuse prevention policies and procedures are a legal duty of care requirement of your board of directors; to protect the most vulnerable in your care, and protect your workers, paid or unpaid, from false allegations!*

Other Risk Management Considerations

continued



- Implement and maintain **other policies** as may be applicable to your organization’s unique operations and ministries, including:
 - Lifestyle Expectations*
 - Statement of Faith*
 - Transportation – screening of drivers, to ensure their personal auto insurance policy covers required usage of their vehicle on behalf of your organization, and to verify that they have sufficient personal coverage (\$2,000,000 or more Third Party Liability coverage) to avoid unnecessary claims against the organization.
 - Workplace Safety, Discrimination, Harassment and Violence
 - Work from Home
 - Personal Devices Usage
 - Social Media Usage
 - Confidentiality with respect to Participants, Donors, and Clients

*Check with your lawyer to determine what lifestyle and/or faith compliance covenant can, or should, be required for volunteers

Other Risk Management Considerations

continued



- Distributing a **Volunteer Handbook** outlining the organization's most important policies and procedures, training requirements, and expectations of volunteers
- With respect to volunteers serving as Directors or Officers on a church or other charity board, providing a **Board Member Binder** to help new members do their job well and with due diligence in meeting their fiduciary and statutory obligations; including copies of the following:
 - Important policies and procedures, including Employment Practices, Abuse Prevention Plan, and other documents specific to the organization's operations
 - Governance documents and charitable objects, including corporate by-laws and by-law amendments if incorporated; or declaration of trust and constitution, if not
 - Most recent annual comparative financial statements and past year's board minutes and resolutions, for context and understanding
 - Insurance documentation, including D&O Liability as required by bylaws, board resolution, and/or not-for-profit corporation act

Other Risk Management Considerations

continued



- Ensure **workplace safety standards** are met with respect to tasks carried out by your volunteers, on or off premises, including communicating their right to refuse unsafe work, and to report to your safety officer, safety committee, management or board if threatened with violence, or if their personal safety is at risk
- Avoid high risk tasks performed by volunteers who are minors or non-professionals, including work involving extension ladders, roofing, plumbing, electrical or the use of heavy machinery
- Avoid requiring, pressuring or expecting unpaid volunteer duties by your paid employees in addition to their employment tasks and work hours, otherwise such accumulated extra time can be considered in a termination severance package calculations
- Avoid referring to volunteer activity in employment terms, or providing volunteers with regular compensation (other than periodic reimbursement of valid personal expenses incurred on behalf of your charity) to avoid having them deemed employees and owing severance obligations if terminated

Other Risk Management Considerations

continued



Volunteer Workplace Safety and Training – Helpful Links

- The Canadian Code for Volunteer Involvement

<https://volunteerstrathcona.ca/wp-content/uploads/2013/07/CodeEng.pdf>

- Putting the Code Into Action

https://volunteer.ca/vdemo/researchandresources_docs/Volunteer_Canada_Putting_the_Code_Into_Action.pdf

Other Risk Management Considerations

continued



Miscellaneous risk management recommendations including:

- Require partner organizations or other groups with volunteers on your premises provide you with proof of their liability insurance, including abuse liability and adherence to abuse prevention measures related to their staff or volunteers working with vulnerable persons in their programs on your premises
- Keep formal records of who you appoint as your volunteers, including contact details, when appointed, in what role(s), and how screened; should your organization ever be sued by them, or because of their negligent and/or criminal acts while allegedly acting within their duties for your organization, especially if they were not in fact your appointed volunteer!
- Don't forget to inform your insurance broker or agent at the time of application for coverage - and as your operations may change - of new or expanding programs, ministries, and events involving volunteers, to avoid uninsured claims due to non-disclosure or a lack of proper coverage by failing to give your insurance provider all the information they need to give you effective coverage advice

Insurance, Risk Management and Volunteers: A Final Caution



REMEMBER, volunteers are a two-edged sword for charities, they are both cheap employees and they are legal agents.

So be careful who you deputize!

Intentional, formal, effective and safe appointment of volunteers can greatly enhance the impact of your organization's charitable work in your congregation and in the communities that you serve

However, having volunteers working or speaking on your behalf who are not formally appointed, screened, supervised or properly removed from their duties if violating your standards and policies, can do irreparable harm to your organization's reputation, cause unnecessary lawsuits, and affect your future insurance premiums and coverage eligibility

Demonstrate the same duty of care in appointing and managing your volunteers, as you would for paid employees; they are your legal agents, and their safety is your board's responsibility

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Presenter:

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