Taking Risks The Safe Way

Risk Management and Insurance Practices of Ontario's Voluntary Sector

Ontario

CONTENTS

1. ABOUT THIS RESOURCE

Who it is for

Taking Risks the Safe Way was developed as a knowledge-building tool and research reference for nonprofit organizations across Ontario. The contents of this document will also guide the work of government in supporting capacity-building among voluntary and community organizations, and provide a valuable resource for the insurance industry in serving the nonprofit sector.

How it was developed

This resource is the result of a year-long, three-phase investigation of insurance and risk management practices in Ontario's nonprofit and voluntary sector, commissioned by the Voluntary Sector Relations Unit of the Ministry of Citizenship and Immigration. It is based on research carried out by the Centre for Voluntary Sector Studies, Ted Rogers School of Management, Ryerson University. Research was conducted by Centre Director Agnes G. Meinhard, PhD, and the research team of Phaedra Livingstone, PhD, Farhat Faridi, PhD, Gail Mathews, PhD, Jacqueline Medalye, PhD Candidate, Derek Nawrot, Ronak Patel and Maame Barima.

What it contains

Taking Risks the Safe Way presents the results of three distinct phases of research carried out by the Centre for Voluntary Sector Studies, Ryerson University.

> **Literature review:** an overview of accumulated theoretical, empirical and practice-based knowledge about risk, risk management and insurance, especially as it relates to the nonprofit and voluntary sector in Canada.
>
> **Quantitative research:** the results of a quantitative on-line survey investigating insurance and risk management practices. Close to 1300 organizations randomly sampled from across the province responded to the survey. The resulting analysis was based on 1184 valid questionnaires.
>
> **Qualitative research:** the observations and insurance concerns of the voluntary sector as expressed by forty-three participants in seven focus groups that were conducted throughout the province in Fall 2007 and Winter 2008.

Why it was created

Ontario depends on community organizations and their volunteers to deliver vital services and build strong, vibrant and socially cohesive communities. A vibrant nonprofit sector engages citizens and strengthens Ontario's communities by building social capital, a vital component in economic development.

As the Ontario Government's Corporate Lead for Volunteerism and the Nonprofit Sector, the Ministry of Citizenship and Immigration (MCI) works with the Voluntary /Nonprofit Sector to encourage and promote volunteerism, to support the sector and strengthen the capacity of organizations serving communities.

The Voluntary Sector Relations Unit (VSRU), Citizenship Branch (MCI) leads several strategies of engagement with Ontario's Voluntary Sector including new initiatives such as the Ontario Volunteer Partnership (OVP) Initiative addressing insurance and risk management in the Voluntary Sector. In addition to services provided through the Insurance and Liability Resource Centre, the OVP commissioned this research that examines current risk management practices in Ontario's Voluntary Sector.

Taking Risks the Safe Way provides a solid foundation upon which we can continue to strengthen the Voluntary Sector's capacity to manage risks and to encourage volunteer engagement across Ontario.

Acknowledgements

This resource would not have been possible without the work of the Centre for Voluntary Sector Studies, Ryerson University, and the cooperation of more than 1300 representatives of nonprofit and voluntary organizations who took the time to fill out surveys and/or participate in one of seven focus groups conducted throughout the province. The Ryerson research team gratefully acknowledges the contributions of the sector, and members of the Ontario Volunteer Partnership Steering Committee, including the Ministry of Citizenship and Immigration, Imagine Canada, the Insurance Bureau of Canada, the Insurance Brokers Association of Ontario, the Ministry of Government Services and the Ministry of Health Promotion, to this work.

Where to learn more

Visit these websites for further information:

Ministry of Citizenship and Immigration
www.citizenship.gov.on.ca

Insurance & Liability Resource Centre for Nonprofits
www.riskmanagement.imaginecanada.ca

Centre for Voluntary Sector Studies, Ryerson University
www.ryerson.ca/cvss

Disclaimer

This report reflects the findings and conclusions of the research team, led by Agnes G. Meinhard, PhD, of the Centre for Voluntary Sector Studies, Ted Rogers School of Management, Ryerson University. As such, the analysis and recommendations are solely those of the research team.

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2. EXECUTIVE SUMMARY

By virtue of their mission to help vulnerable populations, many nonprofit organizations engage in programs and services that inevitably involve some unavoidable risks. Operating their programs under the assumption that ‘doing good’ by providing important public services gives them some form of immunity[1], taking protective action against liability risks was and is not a high priority activity among most nonprofit organizations.

However, some high profile lawsuits, increasing numbers of claims brought against voluntary organizations and steep increases in insurance rates during ‘hard’ cycles, have raised the sector’s awareness of the need “to develop appropriate risk management systems and procedures” (Gaskin, 2006, p. 7). A growing body of literature from the US, Great Britain, Australia and Canada now offers voluntary sector organizations information and advice about managing risks and obtaining the appropriate insurance. However, prior to this research study, there has been no focused investigation of insurance and risk management practices in Ontario’s nonprofit sector. Following are brief summaries of the research findings.

Literature review

The literature review indicates that interest in risk and liability as it pertains to the voluntary sector has been growing steadily in the last five to ten years. Stimulated by sometimes precipitous increases in insurance premiums and some high profile lawsuits, many in the voluntary sector have begun to recognize a need to develop risk management procedures.

All three levels of Canadian government, as well as the insurance industry in Canada, have been partnering with the voluntary sector to find solutions. A growing body of literature from the US, Great Britain, Australia and Canada now offers voluntary organizations information and advice about managing risks and obtaining the appropriate insurance. In Canada, both national and provincial surveys have been conducted to investigate the parameters and depth of insurance and liability concerns.

In brief, the surveys indicate concern among nonprofits with respect to premium rates and the availability of insurance. Programs have been dropped, and certain operations curtailed because of unavailable or unaffordable insurance. The surveys also indicate that a majority of organizations do not have formal risk management policies and procedures in place. Furthermore, many organizations believe that they are in a low-risk category.

By virtue of their mission to help vulnerable populations, many nonprofit organizations engage in programs and services that involve some unavoidable risks. Therefore, focusing on risk as something negative to be avoided, can be counterproductive in the voluntary sector. The approach taken in this research recognizes that some risks are worth taking because their benefits to the organization and their clients outweigh the threats, and a definition of risk management reflecting this reality is offered.

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[1] For centuries, Canadian charities functioned under the protection of the doctrine of charitable immunity. A Supreme Court of Canada ruling in 2005 rendered the doctrine as no longer a valid protection against vicarious liability (Alexander, Holburn, Beaudin & Lang. LLP, “Supreme court confirms there is no doctrine of charitable immunity”, Corporate/Commercial Practice e-News, February, 2006. www.ahbl.ca/files/publications/ commercial_litigation/Corporate_Commercial_ENews_Feb_2.pdf, Accessed July 9, 2007.)

Organizations face both insurable and uninsurable risks as they go about their activities. These are presented in a unified framework in Model 1 of this resource. The literature focuses on risks as defined in insurance policies and suggest ways in which they can be contained through specific risk management practices. However, uninsurable risks, such as losing funding sources or alienating volunteers, either of which may jeopardize a nonprofit's survival, are prevalent in organizations. These risks are best mitigated through good management practices.

The conclusion drawn from the analysis of the literature is that risk management and good management are inextricably related. The challenge for nonprofit organizations is to embed awareness of risk and safe practices into every level of the organization and every aspect of organizational activity. Safe practices should not only be discussed and encouraged, they should be rewarded in order to ingrain the behaviour in organizational members until they become part of the organization's culture.

Acquiring the right insurance for an organization is a very important tool in a nonprofit organization's risk management toolkit. From the perspective of risk management, insurance is an 'after-the-fact' method of damage control. But both Canadian and foreign literature confirm how difficult it is for nonprofit organizations to get appropriate insurance. In Canada there are few insurers that cater to the needs of the voluntary sector, and when they do provide insurance, it is often very expensive.

Over the years, the variety of insurance products has grown. As part of a sound risk management policy, organizations have to decide what types of insurance they need to protect their enterprise. Thus, they have to weigh the probability of a particular risk occurring to the cost of the protection against that risk. In the nonprofit world this is particularly difficult given sometimes high risks but limited financial resources to protect against them, leaving many Canadian voluntary organizations insufficiently covered. The literature review provides strong evidence that nonprofits are struggling to get appropriate insurance at a reasonable price. This is exacerbated during 'hard' insurance cycles.

Quantitative research

Analysis of results of the on-line survey extends the findings in the literature. The first large scale study of insurance practices in Ontario's voluntary sector, it is also the first in Canada to examine risk management in nonprofit organizations in such depth. The study provides a detailed profile of the insurance and risk management practices of nonprofit organizations in Ontario.

While ninety percent of organizations in the sample are insured, 112 organizations in the sample operate without insurance. These organizations tend to be small, with few if any paid employees, annual budgets of less than $15,000, and unlikely to be getting funding from any level of government. They are also less likely to be registered charities and less likely to serve people directly or be in the social service sector. Although half of the uninsured organizations rate their risks as low, a number of organizations acknowledge the high risks they are taking and the dire consequences that could follow. The most frequently mentioned repercussion of not having insurance is difficulty recruiting volunteers.

The ninety percent of insured organizations in the sample hold an average of six types of insurance policies. The most subscribed to policies are: General Property, General Liability, Directors' and Officers' Liability and Accident and Injury. More than two thirds of the organizations obtained insurance from commercial agents. The average (median) cost for insurance premiums is $7,500 and almost half the organizations report that their premiums had increased an average of 10% over the previous two years, however, for one quarter of the respondents the rate increase was 15% or more. Close to forty percent of organizations attributed their increased rates to internal reasons which included broadening coverage and claims history. Forty-five percent attributed the rise in costs to various external reasons, including inflation, 9/11 and other disasters.

Despite the fact that almost half of the organizations in the sample believe their organizational risk is low, two thirds of the sample practice risk management in some detail. On average, organizations engage in nine risk management activities. Most frequently practiced procedures are: signing authority protocols, privacy and confidentiality protocols and independent audits. Insured organizations are more likely to have risk management policies and procedures in place and to implement risk management practices.

When asked to define the meaning of risk management in their own words, respondents most frequently mentioned that risk management was being aware of risks, identifying risks and then minimizing them. But almost one third of respondents did not answer this question and another nine percent either answered that they do not know or gave answers that indicated they had an incorrect concept of risk management.

Insurance costs are related to a number of variables. The most expensive premiums are in Toronto and Northern Ontario, at a rate almost double those in Eastern Ontario. Organizations serving more than 100 people a month pay roughly twice as much in insurance premiums as organizations serving less than 100 people. The larger the organization, the more likely they are to have submitted claims and the higher their premiums cost.

Although an organization’s perceived level of risk is related to the cost of insurance, risk management policies and practices are not directly related. All the variables that individually contributed significantly towards understanding the relationship between insurance, risk management and organizational characteristics were modeled together in a stepwise regression analysis. This section concludes with the presentation of a Path Analysis Model to illustrate the relationship of all organizational, risk and insurance variables in explaining the reasons for the cost of insurance. The measured variables in the survey explain 55% of the variance in insurance rates; in other words, the survey captured 55% of the reasons determining the cost of insurance. This high rate of explained variance attests to the validity of the survey questions.

Qualitative research

The qualitative research provides contextual support for the quantitative findings. The regional focus groups provided organizations the opportunity to voice their opinions about insurance and risk management and make suggestions about how the government and insurance companies might better assist the sector in coping with rising insurance rates.

Many participants felt that it would be beneficial if they were provided small-group tutorial sessions on better risk management. The leader of this tutorial would ideally come from a neutral party and have a background in risk management with experience in the voluntary sector. Another suggestion was a template of proper risk management practices that could act as a ‘checklist’ for organizations to follow. Further to this would be a comparative report card on the types of insurance provided by the major companies that easily put their coverage details and rates into perspective. Finally, many participants expressed their frustrations at being unable to obtain and keep volunteers. Outside of personal satisfaction, some felt that there was little benefit for those providing their time and felt that the sector would be more attractive for potential volunteers if there was tax-reduction assistance.

Discussion

Evidence from the literature review, the survey and the focus group discussions paint a picture of a sector that is becoming more aware of a wide range of risks that nonprofit organizations are facing. 'Doing good' no longer confers immunity to nonprofit and charitable organizations. Suddenly confronted with new realities which include a greater focus on human rights and a more litigious society, coupled with dwindling resources and higher insurance rates, these organizations are looking for solutions to protect themselves and manage their risks. They are seeking assistance from government, from the insurance industry and through their own networks.

The research team notes the following actions currently being undertaken by the Ontario government:

The Ontario Volunteer Partnership (OVP) has been established to provide nonprofit organizations with support in this quest. At the initiative of the Ministry of Citizenship and Immigration (MCI), a committee has been struck which includes representatives from government, the voluntary sector, the insurance sector and academia. Its mandate is to develop strategies to help the sector address risk management and improve insurance availability.

As part of the OVP, the Ministry of Citizenship and Immigration commissioned the study that is the subject of this resource. It is the first public comprehensive study on insurance and risk management practices in Ontario. As the province with the largest voluntary sector, it informs not only the Ontario nonprofit and insurance sectors, but other Canadian ones as well. Its scope is larger than any study conducted on this topic thus far, with a sample of close to 1300 nonprofit organizations. The online survey was augmented by in-depth qualitative interviews. This two-pronged approach not only provides valuable information with respect to the insurance and risk management practices of the voluntary sector, but it also illuminates the needs and concerns of the sector.

As demonstrated in the literature, there is often a lack of awareness in nonprofit organizations about the risks they face. The OVP initiative provided the impetus for the creation of the Insurance & Liability Resource Centre for Nonprofits at http://riskmanagement.imaginecanada.ca. The centre currently provides a range of services, including educational workshops, across the province.

This kind of partnership is exemplary of a new trend in intersectoral collaboration designed to solve social problems that have an impact on the viability of a truly civil society. Nonprofit organizations have to continue to take risks in order to serve the most vulnerable of society's citizens. The importance of their work has to be recognized and their activities have to be facilitated, not impeded, by the public and private sectors. By inviting representatives from all three sectors to work on these issues together and find solutions that will allow the voluntary sector to continue its important work, the OVP is providing important leadership to resolve a growing concern.

Key recommendations are presented as follows:

Insurance Industry

- The insurance industry should be more aware of the importance of this sector, which accounts for 6.8% of the GDP and employs 20% of Canada's labour force.
- Insurance companies should be more aware of the particular needs of nonprofit organizations, especially regarding volunteer liabilities.
- The insurance industry should assist in exploring group insurance alternatives.

Government

- Government should support the development and delivery of educational opportunities and resources related to insurance and risk management.
- Government should explore options to assist the sector and increase volunteer participation.
- Government should make the results of research accessible to the sector.

Voluntary Sector

- Given the varying risk levels of sub-sectors, subsector specific organizations should use their existing networks to share information about insurance and risk management.
- Nonprofits should practise effective risk management, and ensure effective implementation through the following practices:

    - Clearly define the concept of risk management and identify areas of risk for their employees at all levels and through all organizational processes
    - Encourage their employees/volunteers to participate in information sessions/workshops on risk management
    - Promote sustained risk management awareness among board members, employees and volunteers by organizing yearly orientation/ refresher programs about risk management and insurance related issues
    - Practice overall good governance, as an essential aspect of risk management
    - Redefine management practices to incorporate risk management into organizational activities
    - Monitor risk management practices in their organizations and offer attractive rewards for employees who follow the risk management policies.

3. LITERATURE REVIEW

The past two decades have been characterized by many challenges for Ontario's approximately 48,000 nonprofit and voluntary organizations. Changes in government funding policies, devolution of programs and steep budget cuts have plunged the voluntary sector into a state of semi-permanent crisis (Eakin, 2006; Meinhard & Foster, 2003; Rice & Prince, 2000; Scott, 1992). More recently this crisis has been exacerbated by rising insurance costs fuelled, in part, by the 9/11 terrorist attacks, the bursting of the dot.com stock-market bubble, a series of natural disasters afflicting the global community and the cyclical shift from a resource abundance or "soft" insurance market to a resource scarcity or "hard" one.

Research Methodology

The selected research methodology included a review of 400-plus sources, including both domestic and international jurisdictions. See Appendix O for a detailed discussion of the methodology used in conducting the literature review.

Ironically, it was at the very time that these huge changes were taking place that more attention was directed to the voluntary sector by governments and researchers. Statistical studies measuring the size and contribution of the Canadian voluntary sector revealed for the first time how significant a player the voluntary sector was in the Canadian economy.

The approximately 161,000 nonprofit organizations comprise nine percent of Canada's employers and employ 20% of the nation's labour force (McMullen & Schellenberg, 2002, p. 20-1). This translates into more than two million jobs (NSNVO, 2005) and accounts for 6.8% of the nation's GDP (Statistics Canada, 2004, Figure 2, p. 6). In addition to this, six and a half million Canadians volunteer in nonprofit organizations (Hall et al, 2001), contributing more than one billion hours of labour to Canada's economy.

Along with this recognition came the realization that many voluntary organizations, operating on shoestring budgets, were facing growing problems as a consequence of devolution and funding changes. Both the federal government and its provincial counterparts were organizing conferences, seminars, think-tanks and round tables to determine how to help the sector cope with the changing realities. The most ambitious of these programs was the federal government's Voluntary Sector Initiative (VSI), established in 1998 to examine issues of concern to the sector. The VSI finished its mandate in 2003. During this period, "the viability of the voluntary sector [was] threatened by skyrocketing insurance premiums, an increasing inability to obtain coverage, and a climate of fear of serving in an increasing litigious and risk adverse climate" (Bustard, 2004, p. 5).

"Concerned about the impact of the high cost and limited accessibility of liability insurance" the Voluntary Sector Forum (VSF), one of the VSI's offspring, "identified insurance as a national issue for the voluntary sector" (Voluntary Sector Forum, 2004, p. iii). In 2004 they conducted a survey of 330 nonprofit organizations from across Canada to better understand the insurance practices of the sector and how it was coping with the rising premiums (Voluntary Sector Forum, 2004). Another survey by Easter Seals and Ryerson University tapped a larger pan-Canadian sample for essentially the same purposes (Meinhard, 2005). These and a number of provincial surveys (mentioned below) indicate that nonprofits are concerned about the availability and affordability of insurance and their impact on their ability to continue providing services, but only a small minority of organizations engage in formal risk management practices. For a summary and synthesis of these and the other surveys cited below, please see Appendix A.

Provincial initiatives

During the same period independent investigations into the insurance situation were undertaken in several provinces. Many of these initiatives were either instigated by provincial governments or supported by them, indicating recognition on the part of provincial governments of the seriousness of this concern in the voluntary sector. The earliest was a survey in British Columbia designed in response to a growing concern on the part of BC's voluntary sector regarding risk management, liability and anecdotal evidence of difficulty recruiting Board members because of liability concerns (Goldberg, 2002). This study involved support from two government branches: the Ministry of Community, Aboriginal and Women's Services, and the Corporate and Personal Property Registries.

Voluntary organizations in Alberta were also contending with of lack of information about appropriate insurance coverage. This led to the "establishment of the Alberta Voluntary Sector Insurance Council (AVSIC), comprised of the insurance industry, voluntary sector and Alberta government representatives'' (Alberta Superintendent of Insurance, 2007: p. 1). In addition to preparing an insurance toolkit for the voluntary sector, AVSIC also conducted a survey of insurance companies to identify the types of insurance they offered to the voluntary sector. In 2004 the Edmonton Chamber of Voluntary Organizations partnered with the City of Edmonton to conduct a survey of 47 nonprofit organizations to discern insurance practices and problems.

Although we were unable to find published surveys from other provinces, insurance concerns are evident there too. In Saskatchewan, programs such as the Premier's Voluntary Sector Initiative (PVSI) and agencies such as Volunteer Regina and Volunteer Saskatoon have been instrumental in raising the profile of the voluntary sector and its concerns, including risk management and liability coverage. The Law Reform Commission of Saskatchewan published a series of reports on liability issues faced by the voluntary sector: *Liabilities of Volunteers and Organizations in the Not-for-profit Sector (1999); Liability of Board Members in the Not-for-profit Sector (2001);* and *Report on the Liability of Directors and Officers of Not-for Profit Organizations (2003).* These reports, based on the Law Reform Commission's consultation with the nonprofit sector, concluded that liability was an issue of grave concern among the nonprofits.

Manitoba is the only province to have followed the lead of the National Voluntary Sector Accord, by signing a Declaration of Support wherein the provincial and municipal governments of Manitoba pledged to support Manitoba's voluntary sector (Voluntary and Nonprofit Sector Organization of Manitoba, 2005). However, there has been no specific attention placed on risk and risk management issues.

Quebec supports a Directors' and Officers' liability program for provincial sports and recreational organizations that is administered by the *Regroupment Loisir Quebec.* The main focus of this program is to provide liability against third-party claims directed at administrators of those nonprofit and sports organizations that fall under provincial jurisdiction. It covers prejudicial acts charged against the administrators or board members.

In Atlantic Canada, a task force was created by the Insurance Bureau of Canada (IBC), Atlantic Region, to deal with the issues of insurance availability and affordability (Uebel, Wolfgang & BizNext, 2005). In Newfoundland and Labrador, the Minister of Government Services participated in an Ad Hoc committee that reviewed insurance issues in the province. The Ministry of Government services partnered with the IBC Atlantic Region and the Community Services Council Newfoundland and Labrador (CSC) to conduct a study investigating liability insurance issues. The Nova Scotia Insurance Review Board, enacted under Bill No. 1 by the Government of Nova Scotia, issued a separate report, *Rates and Availability of Insurance in Nova Scotia*, in November 2004 regarding affordability and availability of insurance in the province. In

2002, the Nova Scotia General Assembly passed the Volunteer Protection Act to Limit the Liability of Volunteers Serving Nonprofit Organizations. Thus far, it is the only provincial legislature to have done so.

Ontario

In 1997 the Government of Ontario commissioned a report on the nonprofit sector. On its recommendation, the government convened the Ontario Voluntary Forum in 1998 to "support the voluntary sector in establishing a means for voluntary organizations to address their common challenges" (Ontario Voluntary Forum, 1998). Another recommendation of the report was that charities be allowed to purchase liability insurance for Board members (Eakin, 2004).

Insurance issues came to the forefront of concern in Ontario's voluntary sector when rising insurance rates threatened the existence of groups such as the Ontario Federation of Snowmobile Clubs (OFSC), which rely on volunteers to deliver their programs. "Any organization in Ontario that relies on volunteers to deliver its programs has a real serious liability issue ... because there wasn't any law in Ontario to shield a volunteer from unreasonable lawsuits when the volunteer hasn't been negligent or deliberately malicious - just out there doing the best they can" (Craig Nicholson, quoted in CharityVillage, Oct. 24, 2005). They created a coalition of Ontario community service groups called "Protect Our Volunteers" in January 2005, to urge the Province of Ontario to "pass appropriate volunteer liability legislation ... to adequately shield community volunteers from exposure to unreasonable claims of liability" (Protect our Volunteers, 2005).

The critical importance of risk management for the nonprofit sector is further demonstrated by the creation of the Ontario Volunteer Partnership launched by the Ministry of Citizenship and Immigration in November 2006. The partnership involves representatives from the nonprofit and voluntary sector, the insurance industry, various Government of Ontario ministries involved with nonprofit organizations and academia. This five-year, one million dollar initiative will explore ways in which to help nonprofit organizations manage and reduce their liability risks and get the right insurance coverage.

Summary

This brief overview demonstrates the growing concern across Canada over adequate risk management and insurance coverage in the voluntary sector. All three levels of Canadian government, as well as the insurance industry in Canada, have been partnering with the voluntary sector to find solutions. Both national and provincial surveys have been conducted to investigate the parameters and depth of insurance and liability concerns. In brief, the surveys indicate concern among nonprofits with respect to premium rates and the availability of insurance. Programs have been dropped, and certain operations curtailed because of unavailable or unaffordable insurance. The surveys also indicate that a majority of organizations do not have formal risk management policies and procedures in place. (Please see Appendix A for a detailed review and synthesis of the various studies.)

Volunteer centres and chambers in all provinces and territories are now providing information about risk management on their websites. From our literature review it appears that attention focused on this issue is a recent phenomenon, reflecting an increasing awareness on the part of nonprofit organizations that risk management is an important protective measure in an increasingly litigious world, recently shocked by many highly publicized scandals. The following sections describe current perspectives on risk and liability, risk management and insurance.

The meaning of risk and risk management

Most definitions of risk and risk management come from the insurance industry and tend to have a negative connotation: Risk is a threat, something to be avoided, and if it is not possible to avoid, then it must be mitigated through risk management practices, which includes insurance policies.

Although in its origin risk is a neutral term, a measurement of probability for good as well as for bad, in current usage "there seem to be no more good risks; all risks appear bad" (Landry, 2005, p. 5). For example, the Insurance Bureau of Canada (2007) considers risk as the possibility of incurring undesirable outcomes or harm with respect to employees, clients, volunteers, board members, property or reputation of an organization.

Any eventuality that might detract from a nonprofit's ability to carry out its mission and mandate is considered a risk (Alliance for Nonprofit Management, 2007; Alberta Voluntary Sector Insurance Council, 2006). It is therefore not surprising that Internet sites offer a full array of risks threatening organizations.

According to the Charity Commission of the United Kingdom (2007), risks can be sorted into five categories:

> **Risks incurred by lax governance:** e.g. compromised fiduciary oversight because of unskilled directors, rubber-stamp boards, conflict of interest, poor information flow etc.
>
> **Operational risks:** include (but are not limited to) risks to property (including intellectual property), staff (employment regulations, health and safety), volunteers, clients, and organizational reputation, that are incurred by inadequate or faulty operational procedures.
>
> **Financial risks:** incurred by poor budgetary control and financial reporting, insufficient reserves policy, poor investments and loans, fraud or error.
>
> **Risks originating from the external environmental:** poor public perception, adverse publicity, deteriorating relationships with stakeholders, demographic changes and changes in government policy.
>
> **Compliance risk:** ignorance of, or lack of compliance with, laws and regulatory requirements, including tax laws, human rights laws, etc.

This focus on risk as something negative to be avoided can be counterproductive in the nonprofit sector. A significant number of nonprofit organizations engage in risky missions to begin with, given the nature of the services they offer and the vulnerable populations they serve. Trying to eliminate risk altogether would not only constrain their activities and make them less attractive to volunteers, it would undermine their mission and ultimately, the reason for their existence.

Sometimes risks are needed to achieve desired goals. New initiatives and programs are often more prone to risk, but avoiding such experimentation could lead to stagnation, in itself a risk to organizational longevity (Herman, Head, Fogarty & Jackson, 2004). Herman and her associates (2004, p. 7), offer a more neutral definition of risk as "the measure of the possibility that the future may be surprisingly different from what we expect. Risk therefore, is something for which there is a greater than zero but less than 100% chance of happening." Depicting risk in this manner allows for the possibility that taking a risk on a new program for instance, may yield unexpected positive results as well.

The challenge for voluntary organizations is to determine which risks are worth taking, and then work towards reducing uncertainty around the new program or activity by planning and structuring it as well as possible (Graff, 2003). In this context, conventional definitions (e.g. Alliance for Nonprofit Management, 2007; Bertrand & Brown, 2005; Insurance Bureau of Canada, 2007) that view risk management basically as a procedure for minimizing threats and reducing exposure to liability, can be seen as unnecessarily constraining nonprofit organizations from important mission-building activities (Herman, et al, 2004).

Defining risk management

In this spirit, the following definition of risk management is offered:

> Risk management is a disciplined process that helps an organization first, to determine the viability of each of its activities by identifying and weighing their benefits and threats to the mission and future well-being of the organization, and then, to confront and mitigate the threats through good management practices and the implementation of strategic safeguards to prevent losses or reduce their impact.

This definition not only recognizes that some risks are worth taking because their benefits to the organization and their clients outweigh the threats, but it also emphasizes the importance of good management practices in general as well as strategic safeguards against risk. This theme will be discussed in greater detail in the section following.

The practice of risk management

For this report we reviewed more than 400 articles, reports, toolkits, and websites that mentioned risk and risk management in nonprofit and voluntary organizations. Most commonly, articles prepared by and for the nonprofit sector focus on risks to clients, employees and volunteers, in other words, risks that are related to carrying out their mission; however, their approach is piecemeal, and for the most part anecdotal, giving advice on how to minimize particular risks in their own areas of operation. Conversely, articles, reports and advice sheets prepared by the insurance industry tend to focus on risks that are covered by various types of insurance options.

The Alliance for Nonprofit Management (2004) identified the following as the most common risks faced by voluntary organizations (in descending order of frequency): injuries to clients, employees, volunteers and the public; damage to property; employment practices; fraud; and non-compliance with legal requirements.

The articles spell out how to minimize risk, focusing on individual risks and the necessary tactics to control them. Only a small handful of articles present risk management in a holistic manner to be incorporated as part of an organization’s overall management strategy (Landry, 2005; Herman et al, 2004; Gaskin, 2005; Volunteer Australia, 2003). And yet, research indicates that the greatest risk an organization ever faces is what is known as the “liability of newness” - the tendency of new organizations to die within the first five years of their existence (Stinchcombe, 1965; Hannan & Freeman, 1977; Aldrich & Ruef, 2006). Only twenty percent of newly formed organizations of any kind survive past their fifth year (Aldrich, 1979). Liability of newness is the result of a combination of fierce external pressures on the organization coupled with inexperienced management lacking the core competencies necessary to withstand pressure. The early establishment of good management practices helps mitigate the liability of newness.

In this paper we argue, in accordance with our definition and research evidence, that good management practices constitute the foundation of risk mitigation and that specific risk management safeguards should be embedded in an organization's strategy, governance structure and everyday managerial practices. With the exception of external risks, it is clear that all risks are related to poor management. Risk management is inextricably linked with good overall management practices.

For most nonprofit organizations the primary objective of risk management is to protect their organization's core assets - property, income, staff, volunteers and reputation - from harm, loss or erosion. Losses, damage or harm in any one of these areas can be very costly to an organization, and may ultimately result in the demise of the organization. Protection of these assets, primarily through insurance policies, constitutes the mainstay of risk management strategies. Some procedural safeguards to prevent losses and damage may also be in place. With few exceptions (see Herman, et al, 2004), most books, articles, toolkits and manuals refer to this aspect of risk and risk management almost exclusively.

However, there are other ways to control an organization's risk, ways that are not usually considered as strategies for risk management. These are: mission fidelity, sound human resource management, public accountability and high standards of moral and ethical behaviour.

> ***Mission fidelity***. Staying true to its mission is an important goal for a nonprofit organization - a goal which is easy to lose sight of in efforts to quell crises, raise funds and/or embark on new ventures (Meinhard et al, 2005). Often referred to as mission drift, straying from one's mission has a negative impact on stakeholders which can affect the organization's ultimate survival, through loss of clientele, donors, staff and volunteers, who continue to believe in the mission. The likelihood of engaging in behaviour that alienates stakeholders is much lower in organizations that are true to their mission.
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> ***Sound human resource management*.** Nonprofit organizations face several challenges with respect to HR management. Only large organizations can afford to hire a manager of human resources and only the largest have human resources departments (McMullen & Schellenberg, 2003). In the remainder of the organizations, HR management is left to their executive directors, few of whom are trained in HR. Available guidelines to help them do not reflect the reality of smaller nonprofits (Meinhard, 2006). Training in HR management with respect to recruitment, hiring and interpersonal management skills, combined with the institution of specific policies with respect to discrimination, harassment, dismissal, and workplace safety, would make the organization a better place in which to work and also decrease the risk of claims brought against the organization with respect to employment practices.
>
> ***Public accountability***. Perhaps there is no one word that better describes the current reality of nonprofit organizations than "accountability". Government and other funders are now demanding it as a requisite for providing funds (Meinhard et al, 2003). The public, aware of accountability fiascos such as the American Red Cross's misappropriation of dollars meant for the 9/11 victims, the sponsorship scandal here in Canada, and other headline cases involving misuse of funds, are demanding greater transparency from nonprofit organizations. Organizations with clearly defined accounting procedures that "follow the money" automatically become more accountable. But money management is not the only way to be accountable. Ongoing program and performance evaluation demonstrating the effective use of the organization's resources is important to the organization's stakeholders. The greater the accountability and transparency, the more attractive the organization is to donors, volunteers and competent staff and the less likelihood of losses, claims and court cases.

High standards of moral and ethical behaviour. Ensuring high moral and ethical standards is ever more important in these litigious times when corporate governance is under the highest scrutiny. This is generally taken for granted in nonprofit organizations as part of the aura of "dedicated people doing good things". However, recent exposés of unethical behaviour and vicarious liability rulings have focused more attention on this in the nonprofit world[2]. Transparent fiduciary oversight and clear expectation of moral and ethical behaviour at all levels will mitigate risks to the organization's reputation.

Good management practices go a long way towards mitigating risks, but in organizations without ideal management, instituting risk management practices is essential. Even in well managed organizations, specific risk reduction strategies are often necessary. A beneficial side effect of incorporating risk management practices may be better management in general which in turn will result in other benefits such as improved efficiency, performance and management-staff relations.

Incorporating risk management practices

According to Graff (2003), the aims of risk management are threefold: 1) prevention - keep things from going wrong, 2) minimization of harm - usually through acquiring insurance, and 3) liability reduction - documenting risk management practices to "reduce the likelihood of successful legal action". Responsibility for risk management can be delegated to a full-time professional risk manager, it can be part of the senior manager's job description, or it can be assigned to a committee composed of staff and volunteers (Herman, et al, 2004). In the case of the latter two options, the advice of outside experts would most likely be needed.

The articles, websites, toolkits and models we reviewed present steps and guidelines to achieve these aims. Some are more elaborate than others, tailored to different needs, depending on the size, activities and structure of the organization. The steps and practices suggested by the various articles fall into the following general categories of activities:

- Identifying and assessing risks
- Determining what actions need to be taken, in other words, establishing a risk policy- this is the main focus of the majority of the articles and websites
- Putting the risk controls in place - this is another important focus in the literature
- Monitoring and reevaluating risk management practices as needed.

Each of these risk management categories subsumes many specific activities so that it is easy to lose sight of the strategic whole, or to use a well known metaphor, to focus on the trees rather than the forest. However, risk management should never just be a series of activities carried out simply to address some specific risks. Well-practiced, it is a holistic strategy involving the entire organization starting at the board level, down through senior and junior management, to staff members and volunteers (Landry, 2003; Volunteering Australia, 2003; Herman et al, 2004).

The role of the board in setting the tone for risk management is crucial (Siegel, 2006), yet barely 40% of Canadian nonprofit boards have risk management policies (Bugg & Dallhoff, 2006). Starting with board members, each person in the organization should be trained to recognize the risks inherent in carrying out their activities, whether it involves the general public, clients, peers, or subordinates, and to follow

[2] Examples include the 1995 case against United Way of America's former president for defrauding his organization and the 1999 vicarious liability court case against Children's Foundation for immoral and unethical actions by its employees.

stipulated procedures in order to avoid or minimize the risk. Constantly encouraged and rewarded, these behaviours become ingrained in the individual and embedded in the organization. In time, such practices become part of the organization's culture (Purdue, 2007; Wiegman, von Thadden & Gibbons, 2007).

When addressing risk management, all of the reviewed articles begin from an assumption that organizations and their members are aware of their risks and the need for risk management. The articles then identify organizational activities necessary for risk management. However, as the findings from various Canadian surveys indicate (see Appendix A), "many nonprofit organizations either are not aware of or have not implemented such policies or practices in their organizations..." (Goldberg, 2002, p. 16).

Some organizations are aware of risks, but do not think they are relevant to their organization, to the extent that they do not even have insurance (Meinhard, 2005). Extant literature does not address how to raise the awareness of organizations to the risks they face and the consequent importance of risk management.

Awareness of risk sometimes comes as a result of a highly publicized lawsuit, such as *Bazley v. Children's Foundation* and *Jacobi v. Boys' and Girls' Club of Vernon*. At other times, awareness comes when volunteers refuse to associate with an organization because of inadequate liability coverage (Goldberg, 2002; Meinhard, 2005). Sometimes, awareness of an important issue only comes about through the efforts of interested parties to raise awareness.

The Canadian voluntary sector, with the help of the Insurance Bureau of Canada and its provincial counterparts, has responded to the challenge by creating websites that discuss insurance and risk management. In Ontario, the Ontario Volunteer Partnership is organizing a series of workshops across the province to raise awareness about risk and help organizations develop risk management policies and practices.

The lack of formal risk management in Canadian voluntary organizations

Both anecdotal and survey evidence indicate that a majority of Canadian nonprofit organizations do not have formal risk management policies or procedures in place. Most of the surveys are small in terms of their sample size, but all come to the same conclusion: very few organizations have formal risk management programs in place.

Averaging across the various studies reviewed in Appendix A, only about 40% of Canadian nonprofit organizations engage in risk reduction activities. In a large study of nonprofit governance, with a sample size exceeding 1300 organizations from across Canada only 40% of organizations reported having any kind of risk management as part of the Board's governance strategy (Bugg & Dallhoff, 2006). Clearly the majority of nonprofit organizations do not have formal risk management policies or practices. Some of the reasons that nonprofits often do not practice risk management include the following:

- Many nonprofits believe that their risks are low (Meinhard, 2005).
- Limited budgets and small staff contingents leave little time for dealing with risk management in the face of everyday operational duties (Meinhard, 2005; Herman et al, 2004).
- The current practice by governments of funding projects, rather than full programs, decreases operational overheads even more, making obtaining appropriate insurance coverage more difficult (MacLeod, 2005).
- The role of governance lies in the hands of volunteer board members, who often lack experience and knowledge in risk management (Hunter, 2003; Volunteer Canada, 2002).

- The belief that “doing good” cannot result in harm. This stems from the Doctrine of Charitable Immunity, which is no longer an acceptable excuse as it was struck down at law, but the myth remains (Alexander et al, 2006; Oshinsky & Diaz, 2002; Public Entity Risk Institute, 2007).

And yet, nonprofit organizations face some unique risks:

- They serve vulnerable populations where the risk of abuse and/or unintentional harm is greater (Herman et al, 2004; MacLeod, 2005).
- They undertake a wide range of activities, for many of which, insurance is not available (Herman, 2002) and where control is more difficult to establish (Herman & Jackson, 2004).
- Their funding is unstable and inadequate creating overworked staff members who are more prone to mistakes (Meinhard, 2006).
- The demands of donors may threaten an organization’s ability to carry out its mission Meinhard & Foster, 2003).
- Nonprofit organizations are particularly prone to volunteer-related risks (Gaskin, 2005). These include misuse of authority, performance abuse, defiance of confidentiality, and misrepresentation of organization (Graff, 2003).
- An organization could face disastrous consequences because of errors made by the volunteers and could loose the confidence and trust of the public, which is its priceless asset (Griffith et al, 2005.

Summary

Organizations face both insurable and uninsurable risks as they go about their activities. Much of the literature focuses on risks defined in insurance policies and how they can be contained through specific risk management practices. However, uninsurable risks, such as losing funding sources or alienating volunteers, both of which may jeopardize a nonprofit’s survival, are prevalent in organizations. These risks are best mitigated through good management practices.

The conclusion drawn from this analysis of the literature is that risk management and good management are inextricably related. Sound management practices not only ensure that an organization will be true to its mission, treat its employees well, be accountable to its stakeholders and maintain a reputation for moral and ethical behaviour, it also reduces both insurable and uninsurable risks. Well managed organizations can easily incorporate specific risk management measures. Conversely, the introduction of risk management practices into organizations that are not well managed can be the basis for improved general management practices which will benefit organizations in dealing with their uninsurable risks as well.

Although risk management practices and strategies are often presented in piecemeal fashion, the challenge for nonprofit organizations is to embed awareness of risk and safe practices into every level of the organization and every aspect of organizational activity. Safe practices should not only be discussed and encouraged, they should be rewarded in order to ingrain the behaviour in organizational members until they become part of the organization’s culture.

We conclude this discussion of risk management by presenting a unified framework of risks faced by nonprofit organizations based on the Open Systems Model of Organization. This model depicts organizations as cybernetic systems importing resources from the environment, transforming these resources, and exporting the outcomes of this transformation process back into the environment. As Model 1 suggests, risks can occur in any one of these three phases. They can occur in the input phase, which relates to acquiring resources and accommodating the demands of the environment; in the transformation phase, during which organizational inputs are processed to provide the services or products of the organization; and in the output phase, in which the end product is exported back into the environment, reflecting the mission and goals of the organization.

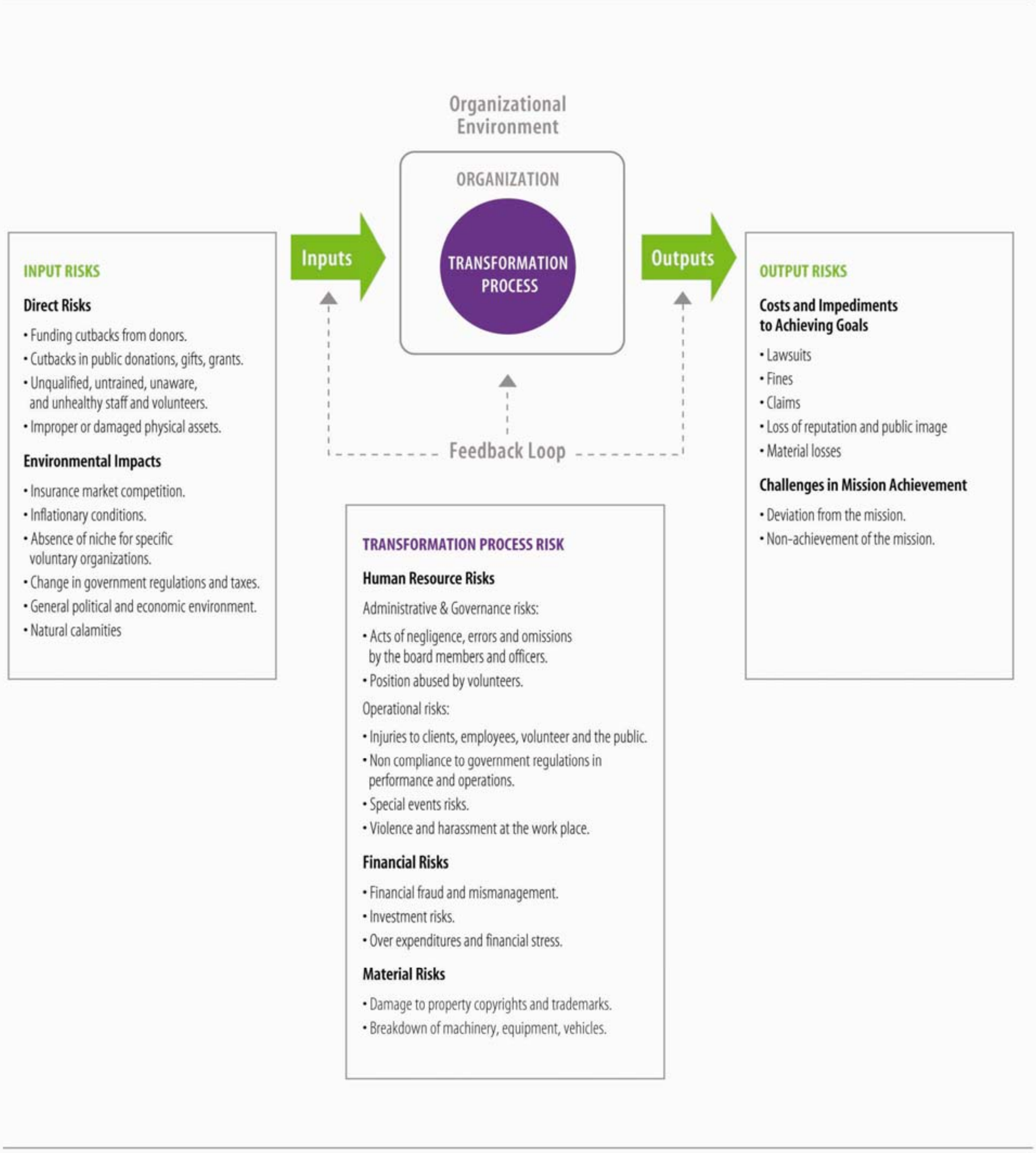
In the input phase, risks can be categorized as: a) direct risks, relating to the critical resources needed by the organization to complete its mission, for example: funding cutbacks; and b) risks incurred because of general environmental instability, for example poor economic conditions, changes in government regulations, natural disasters and the like.

It is in the transformation phase that the potential for risks is greatest. As an organization carries out its mission and goals it can incur risks related to its human, financial and material assets. These could include abuse and injury to employees, volunteers or clients, fraud and financial mismanagement and property damage. See Model 1 on the following page for a more detailed listing.

In the output phase the risks are related to costs and impediments to achieving goals such as fines and lawsuits. Inability to realize organizational goals and fulfill the organization's mission can ultimately lead to the demise of the organization.

In summary, this section focused on the identification, assessment and prevention of risks from a holistic cross-organizational perspective. However, a significant part of risk management is containment or minimization of harm once damage occurs. This is the role of insurance, the subject of the next section.

Model 1. An Open System Framework for Viewing Organizational Risks



Insurance as a risk management tool

From the perspective of risk management, insurance is an 'after-the-fact' method of damage control. It is compensation for losses already incurred and is a very important plank in a nonprofit organization's risk management arsenal.

Definition of insurance

Insurance is a promise of compensation for specific potential future losses in exchange for a periodic payment. Designed to protect the financial well-being of an individual, company or other entity in the case of unexpected loss (http://www.investorwords.com/2510/insurance.html), it is a system that "shares the losses of the few among the many …. providing financial peace of mind in a world filled with risk" (Insurance Brokers Association of Canada, 2005). "It allows [organizations] to engage in many ventures without having to set aside reserves to meet the financial requirements that may arise from certain types of losses" (Ibid).

A brief history of insurance [3]

Written records of insurance date back to the ancient world. The first recorded evidence of insurance was documented in China, in 3000 BC. Chinese merchants, in an effort to minimize their risk of loss, would spread their cargo among many ships as well as partner with insurers who would compensate for losses incurred. "Premiums" were only collected after insurers paid the claims. This was in the form of indentured labour until all costs were repaid the insurer.

Insurance in ancient Babylon was more reasonable and resembled our system more closely. As recorded in the Hammurabi Code in 2100 BC, money suppliers agreed to cancel loan repayments in case of losses incurred by the traders. For this protection, the money suppliers demanded a premium on their regular interest for the loans. Premiums from many absorbed the losses incurred by a few. Other ancient peoples, Jews, Egyptians, Greeks, Phoenicians, and Romans, also have records of insurance, similar to the Babylonians.

Although most of the insurance in these times was related to trade hazards and was transacted between individuals, other forms of insurance developed. The Babylonians began extended insurance to cover provisions for a family in case of loss of life – a precursor to life insurance. The Romans had burial societies relieve surviving family members of the burden of paying funeral expenses. Fire insurance was introduced after the great fire of London in 1666. However, it wasn't until 1688 that the first insurance company was formed – Lloyd's of London, named after the coffee house in which the early insurance transactions took place between merchants, ship-owners and underwriters.

The first insurance companies operating in Canada were based in Britain and involved marine and fire insurance. Canada's first insurance company, founded in 1804, was Montreal's Phoenix Assurance. Today there are more than 150 insurance companies operating in Canada providing a wide range of insurance coverage (Canadian Insurance, 2007). A selection of these is presented in the section "Types of insurance".

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[3] This short discussion is not meant to be an exhaustive scholarly treatise of the history of insurance. It is presented merely to offer an appreciation of the ancient roots of risk management. The information presented was cobbled together from various websites and makes no claims for accuracy.

Insurance in the nonprofit sector

It is not clear when nonprofit and voluntary organizations first began to use the services of insurance agents. Until rendered invalid in a number of court cases in the latter decades of the twentieth century, there was a general acceptance of the doctrine of charitable immunity across North America (Siegel, 2006). This lulled many charities and nonprofits into thinking that they did not need liability insurance.

Today, an estimated 70%-90% of Canada's voluntary organizations have some kind of insurance coverage[4], however, "there is limited understanding of what protection the insurance contract provides" (MacLeod, 2005, p. 15). With only a few insurance agencies specializing in insurance for the voluntary sector, an estimated 45,000 nonprofit organizations have been having difficulty finding the appropriate coverage at affordable rates (MacLeod, 2005). This has been one of the catalysts for the flurry of activity surrounding insurance and risk management.

Some of the more risk prone sub-sectors have been actively examining alternatives and seeking solutions, in many instances along with their agents. For example, a broker in Southern Ontario has been trying to alert politicians and the public to the desperation of sports and recreational groups because insurance companies are reluctant to continue insuring them (Algie & Adams, 2005).

Domestic insurers have ceased providing insurance for recreational activities; and while a handful of foreign companies are willing to insure these activities, they do so only at high premium rates (Olney, 2004; MacLeod, 2005). Rising insurance rates, combined with rising energy costs have driven up operating overheads, which in turn have led to a substantial increase in user fees (Ontario Recreation Facilities Association, 2003). Premium increases and insurance availability has affected other higher-risk fields as well, such as services for special needs adults and youth (Olney, 2004). "Obtaining affordable coverage for the vast majority of voluntary sector organizations that provide services or products to vulnerable populations has been extremely difficult" (MacLeod, 2005, p. 20).

The insurance industry's reluctance to provide liability insurance to nonprofit organizations stems primarily from the vulnerability of the clients they serve (Macleod, 2005). Added to this is a belief that nonprofit organizations are riskier to insure because, lacking business skills, their standards of operation are lower (Macleod, 2005).

With a growing number of lawsuits, people have stopped volunteering in sports and recreational activities (Ontario Recreation Facilities Association, 2003). This is a major cause of concern for those organizations that function, to a large extent, on the strength of their volunteers. They are concerned about decreasing numbers of volunteers as well as worried about the liabilities their volunteers may be facing.

In 1997 the US Congress passed the Volunteer Protection Act to reassure volunteers and encourage volunteering. A 2005 court case in Wisconsin demonstrated that this act may protect the volunteer, but not the organization, which was sued for an accident caused by the volunteer while acting for the organization in question (Charity Governance Blogs, 2005). There is an initiative underway in Ontario to pressure government to pass a volunteer protection act as was passed in Nova Scotia. A similar proposal in New Brunswick was ultimately defeated upon second reading.

[4] This estimate is derived from various studies conducted in Canada (reviewed in Appendix A), some of which place the rate as high as 90% and others as low as 70%.

Understanding insurance rates

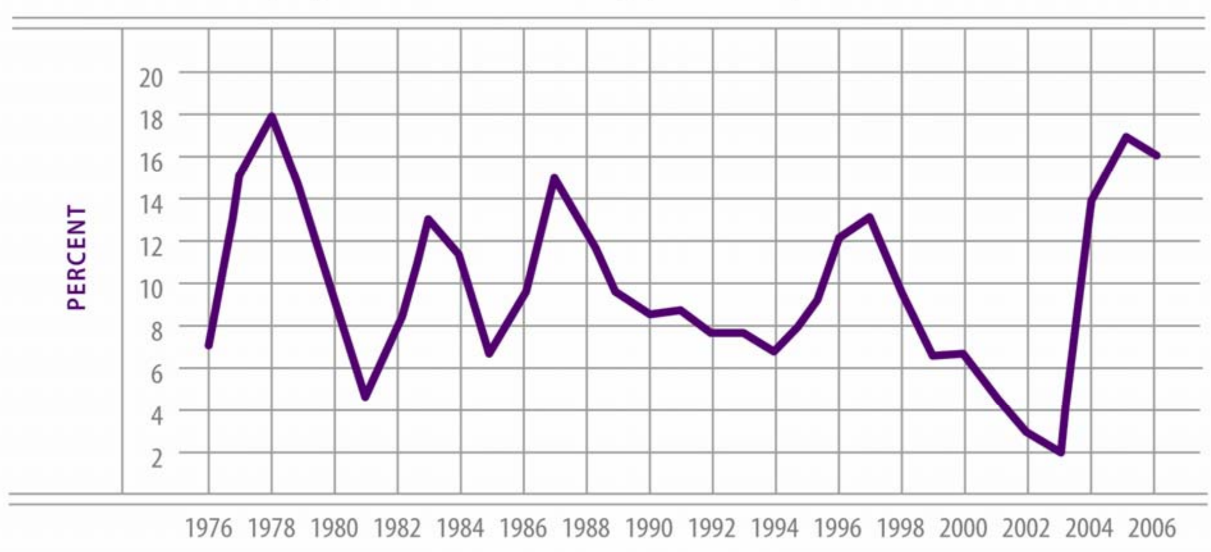
The cost of insuring individual entities (people or organizations) is borne only in part by the premiums paid for liability or casualty protection. Money from premiums is invested, and earnings from these investments are used to supplement premiums to cover the actual cost of the insurance. Thus, insurance premiums fluctuate not only according to the magnitude of underwriting losses, but also in tandem with the performance of investments.

In times of booming markets, insurance companies are in search of more capital to enable them to invest and take advantage of rapidly rising market returns. Fierce competition for new clients, and a willingness to take greater risks, as return on investments outweigh underwriting losses, drive down the price of premiums. This is called a “soft” market. The opposite occurs when investment income declines. Companies are unwilling to take risks as reserves are diminished. With insurance hard to get, premiums rise. This is referred to as a “hard” market (Hodgson & Brakel, 2004).

The last hard market in Canada was affected by a number of factors that all came together: 1) a low return on investment, 2) a sharp increase in the costs of injury claims, even though the number of claims have remained steady, 3) increase in fraudulent claims, 4) global catastrophes and 5) a substantial increase in reinsurance rates - insurance that insurance companies buy to protect themselves against large, unexpected claims (Insurance Brokers Association of Canada, 2007).

The cycle of fluctuation from hard to soft markets is about ten years. Chart 1 below illustrates the cyclical fluctuations in return on equity. Note the steep decline in 2001 and 2002, the lowest return on equity recorded in the last three decades. When the return on equity goes down, the market turns ‘hard’ and the cost of premiums rises to compensate.

Chart 1. Return on Equity, P & C Insurance Industry (1976–2006)



Source: Insurance Bureau of Canada, as cited in Cook G. & Hogan, D. (2007) Cycle Politics. *Canadian Insurance 2007 Annual Statistical Issue*, p. 20.

In Canada, "the insurance industry is closely monitored and regulated by both federal and provincial governments to ensure that insurance companies can meet their financial obligations to policyholders. In addition, provincial governments have jurisdiction over market conduct and consumer issues such as rate-setting, sales practices and the conduct of brokers" (Insurance Bureau of Canada, 2005).

Newest figures by the Insurance Bureau of Canada indicate that the steep premium hikes experienced in the aftermath of 9/11 have stabilized and are even declining, especially in the property and casualty areas. Premiums for Directors and Officers Liability and especially General Liability insurance, the ones most important to nonprofit organizations, are not declining at the same rate (Uebel, Wolfgang, and Biz Next, 2005: 85).

Types of insurance

Not all nonprofit organizations have the same insurance needs, but there is a general consensus with respect to basic coverage. The most common claims filed against nonprofit organizations are: 1) claims and lawsuits filed against a nonprofit organization, 2) claims for injuries to staff and volunteers, and 3) claims to repair or replace property a nonprofit owns or controls (Alliance for Nonprofit Management, 2007).

Claims and lawsuits filed against nonprofit organizations

This is what is generally referred to as Third Party Liability. Such claims are covered by various different types of insurance:

> ***Commercial general liability insurance*****:** CGL protects the organization against claims made by third parties with respect to property damage or bodily harm caused by the organization's products, or the activities of its members, including volunteers, or occurring on its premises.
>
> ***Directors' and officers' liability*****:** D & O protects the officers of an organization with respect to employment related claims such as wrongful dismissal or discrimination, mismanagement of funds, or failure to carry out fiduciary duties that result in non-bodily harm to an individual.
>
> ***Professional liability*****:** This policy covers liability claims against licensed experts delivering services for an organization. This type of insurance is mandatory if the organization's services are provided by licensed professional practitioners. Also referred to as professional errors and omissions liability.
>
> ***Umbrella coverage*****:** An addition that provides extra protection when primary coverage is exhausted.
>
> ***Automobile insurance*****:** This pertains to organizations whose staff or volunteers drive to carry out the organization's mission. It typically provides separate coverage, with separate premiums, for liability for injuries to others, for damage to the car, and for the risk that another motorist may be uninsured or under insured.
>
> ***Other, less common policies* include:** employment practices liability (EPLI); employee benefits liability; and improper sexual conduct/sexual abuse liability.

Claims filed against nonprofit organizations for injuries to staff and volunteers

Such claims are covered by:

> ***Workers compensation*****:** Compensation provided by the government for injuries suffered while carrying out job-related duties during the convalescence period, or permanently if an employee cannot return to work.
>
> ***Employers' liability*****:** This policy protects the organizations from claims made by employees or volunteers who get injured while performing job-related duties. This is often part of CGL.
>
> ***Accident and injury coverage for volunteers*****:** Covers costs of harm or injury incurred by volunteers while performing their volunteer duties.

Claims for damage to property a nonprofit owns or controls

Such coverage includes:

***General property coverage*:** This insurance covers damage to the organization's property, including damage caused by the organization to the property of others.

***Crime coverage*:** This coverage provides financial protection against the potential dishonest acts of employees, and a "3D" policy or destruction, disappearance and dishonesty policy which covers theft and similar crime losses inside and outside the premises.

***Fidelity bond*:** A policy that protects an organization from loss in case of financial misconduct by officers or employees. If a bonded person takes money, the bonding company will pay the organization the missing amount. All officers and employees with financial duties should be bonded.

***Boiler and machinery coverage*:** This insurance covers the costs of repairing or replacing heating, air conditioning, and ventilating equipment.

***Computer equipment and software coverage*:** This insurance covers the costs incurred as a result of computer failure.

Alternatives to commercial insurance

Gail MacLeod, in her report prepared for the Muttart Foundation in March 2005, identified various options to commercial insurance:

***Mutual trusts and cooperatives*:** where the members provide mutual protection.

***Nonprofit insurance company*:** as established in California by a group of large grant makers "to provide reasonably priced insurance to nonprofits domiciled in California" (MacLeod, 2005, p. 33).

***Self insurance*:** preparation for the eventuality of a loss by allocating money on a regular basis to build up a reserve fund.

***Reciprocal insurance exchange*:** provides mutual protection to subscribers whose premiums may differ, depending on the size and nature of their organization, but whose coverage is exactly the same as all others.

Summary

From ancient times, provisions have been sought for compensation of losses or damages incurred through accidental or wilful means. Premiums paid by many, augmented by investment growth, pay for the losses incurred by the few. The insured buys protection, not against the risk of loss, but for compensation of losses, should they occur. Protection can be bought not only against losses or damage to the insured, but also damage and harm the insured may cause others.

Over the years, the variety of insurance products has grown to cover virtually any risk. As part of a sound risk management policy, organizations have to decide what types of insurance they need to protect their enterprise. Thus, they have to weigh the probability of a particular risk occurring to the cost of the protection against that risk. In the nonprofit world this is particularly difficult given sometimes high risks but limited financial resources to protect against them.

With the invalidation of the doctrine of charitable immunity, and a growing reluctance of volunteers to serve in risky ventures without proper insurance, nonprofit organizations are seeking better insurance coverage. However, with few insurance companies specializing in insurance for the nonprofit sector, the unavailability of some types of insurance, and the generally high cost of insurance, many Canadian voluntary organizations are not sufficiently covered.

Discussion

This review, based on more than 400 sources including academic publications, newspaper articles, reports, surveys, toolkits, and websites, has attempted to give a comprehensive overview of the latest information on risk management and insurance in the nonprofit sector, focusing mainly, but not exclusively, on the Canadian experience. Its purpose is to provide the reader with a better understanding of the issues and problems relating to risk and liability, risk management, and insurance in the voluntary sector.

Not intended to be a "how to" manual for risk management, this review nevertheless provides valuable insights into the essence of risk management: vigilant governance at the Board level, good management practices across the entire organization that permeate the organization's culture, and when needed, specific risk management activities. This report provides a framework for understanding the holistic scope of risk and its management.

There are some glaring gaps in the literature. We were unable to identify the magnitude of risk exposure in the sector as a whole. While there are a number of anecdotal examples of risks incurred in the voluntary sector, there is no study that measures the frequency of lawsuits and claims, nor the financial costs of these losses. Conversely, some sources claim that overall risk in the sector is low, however these claims are not backed by empirical evidence. Moreover, we specifically looked for evidence to determine whether engaging in risk management practices confers the organization accessibility to more favourable insurance rates. Claims that proper risk management leads to reduced premiums are theoretical, not empirically based. There has been no empirical examination of this relationship and even anecdotal evidence is lacking. Some qualitative interviews (e.g. Voluntary Sector Forum, 2004) seem to indicate that risk management practices have no bearing on insurance premiums.

While most discussions of risk and risk management emphasize the negative aspects of risks, especially in reference to the vulnerable populations served by the voluntary sector, we accentuate that some risks are worth taking in furthering the fulfilment of a nonprofit's mission; otherwise the survival of the organization may be threatened as its services are not fulfilling client needs and it ceases to be attractive to is donors and volunteers. So, we conclude that risks can be positive and even essential, but they must be taken with the proper safeguards; safeguards embedded in all aspects of organizational activity and at all levels of organizational governance.

Trying to prevent risk from occurring, through good organizational management practices, is just one aspect of dealing with risk. Another is arranging for protection against losses incurred by claims against the organization or its staff from third parties, claims against the organization relating to employees' and volunteers' physical and mental well-being, and claims for damage to property. Most commonly, this kind of protection is provided by commercial insurance agents, although there are alternatives to commercial insurance.

The literature review provides strong evidence that nonprofits are struggling to get appropriate insurance at a reasonable price. This is exacerbated during "hard" insurance cycles, but even in favourable market conditions there are relatively few insurers providing service to the nonprofit sector.

4. QUANTITATIVE RESEARCH

From October 2007 through February 2008, approximately 8000 of Ontario's nonprofit organizations were invited to participate in an on-line survey about insurance and risk management practices. This section presents the findings and conclusions gleaned from the survey and provides an analysis of the insurance profile and risk management practices of Ontario's nonprofit organizations.

Research methodology

Research design focused on an online survey for Ontario's voluntary sector. The sampling strategy was designed to offer a representative sample of Ontario's nonprofit and registered charitable organizations and allow examination of a number of key dimensions. See Appendix O for a discussion of the methodology used in conducting this research.

Sample characteristics

As described in Appendix O, the sampling strategy was designed to offer a representative sample of Ontario's nonprofit organizations, stratified according to region. The sections below describe the sample in terms of organizational mandate, size, budget, location and whether or not the organization was a registered charity. The sample characteristics are then compared with those published by the National Survey of Nonprofit and Voluntary Organizations (NSNVO) in 2003.

Organizational mandate

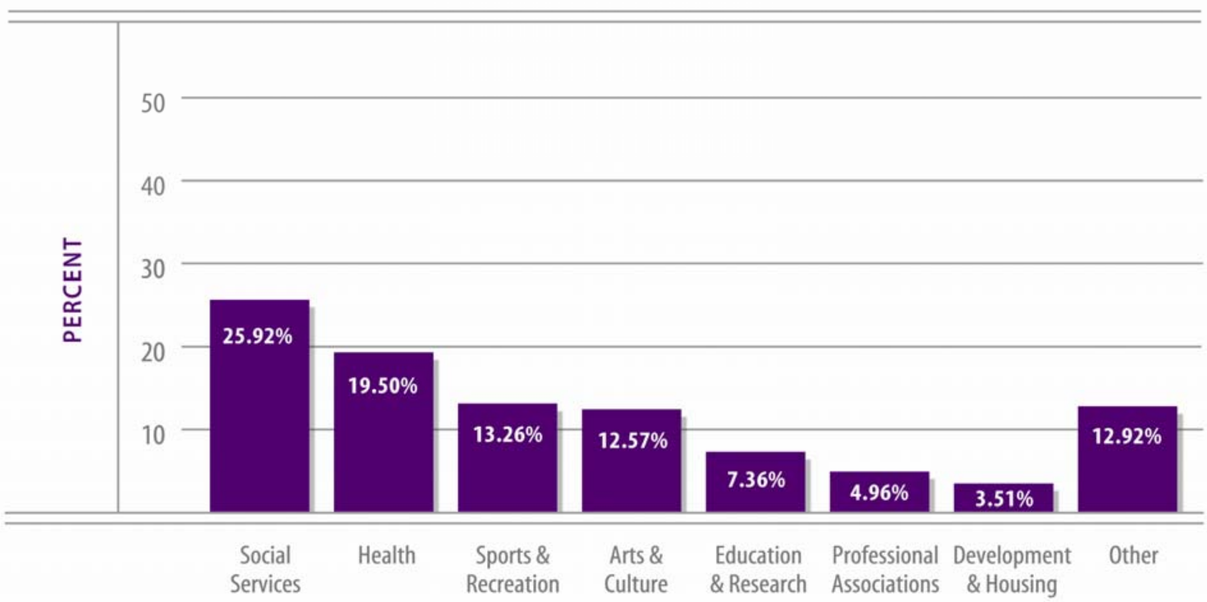
Table 1 presents the sample distribution according to their organizational mandate. Definitions of these organizational types can be found in Appendix B.

Table 1. Organizational Mandate

	Frequency	Percent	Valid Percent
Arts and Culture	147	12.4	12.6
Prof. Assoc., Union	58	4.9	5.0
Development & Housing	41	3.5	3.5
Education & Research	86	7.3	7.4
Environment	36	3.0	3.1
Grant-making, Volunteer promotion	24	2.0	2.1
Health	228	19.3	19.5
International	20	1.7	1.7
Advocacy	23	1.9	2.0
Religious	16	1.4	1.4
Social Services	303	25.6	25.9
Sports & Recreation	155	13.1	13.3
Other	32	2.7	2.7
Total	1169	98.7	100.0
Missing	15	1.3	
Total	1184	100.0	

Figure 1 represents the distribution of organizational types in descending order of frequencies. Organizational types comprising less than 3% of the total sample were combined into the “other” category. Social service organizations comprise one quarter of the sample, followed by agencies providing health and wellness services (19.3%), sports and recreational organizations (13.1%) and arts and cultural organizations (12.4%).

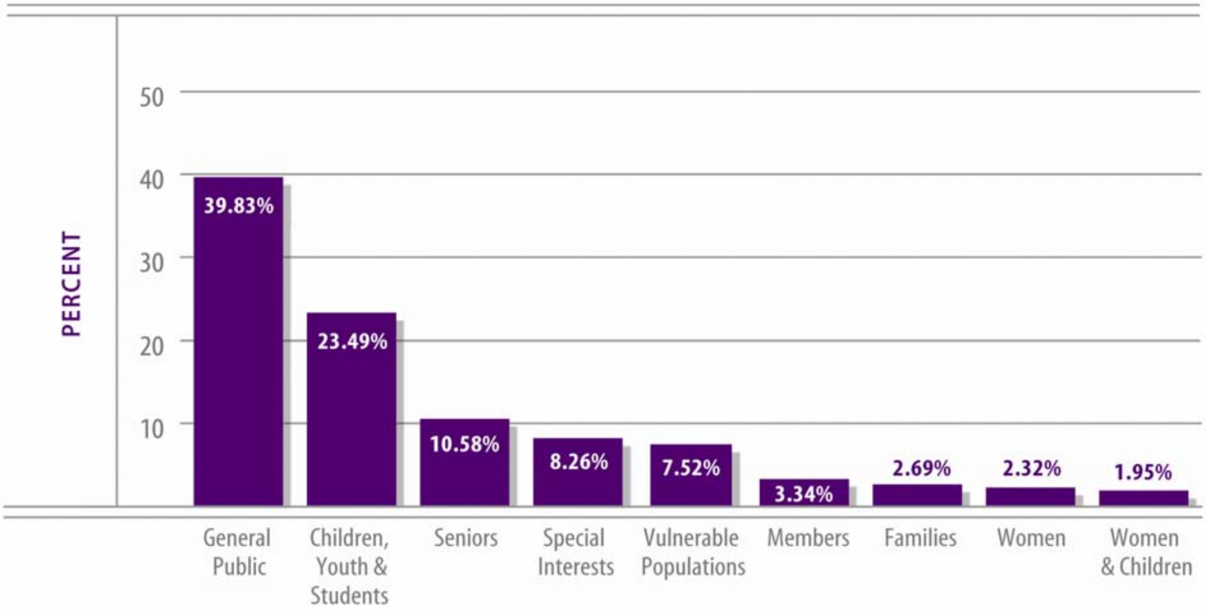
Figure 1. Organizational Mandate in Descending Order of Frequency



Ninety-two percent of sampled organizations provide services to people directly. Two fifths of these organizations serve the general public. Just over one fifth provide services to children (10.8%), youth (6.2%) and students (4.4%). Eighteen percent serve vulnerable populations which include seniors (10.6%) and others in need of care (7.5%). Organizations created to provide venues for people to partake in special interests such as hobbies, music sports, comprise eight percent of the sample.

Figure 2 lists the beneficiaries of the organizations’ services and their frequencies in descending order of frequency. Almost two thirds (64%) of the sampled organizations serve more than 100 people a month, the remaining organizations are evenly split between those that serve fewer than 50 people a month and those that serve between 50 – 100.

Figure 2. Beneficiaries of Organizational Services in Descending Order of Frequency



Organizational status and location

While ninety percent (90%) of organizations in the sample are legally incorporated entities, seventy eight percent are registered charities. The organizations range in age from less than 1 year old to 182 years old. The mean age is 33 years and the median age is 25 years. Eighty-five percent of the organizations are less than 50 years old.

As Figure 3 indicates, two thirds of the organizations in the sample are stand-alone organizations, twenty three percent are head offices and twelve percent are branch offices. Their geographic location is presented in Figure 4.

Figure 3. Type of Organizational Unit

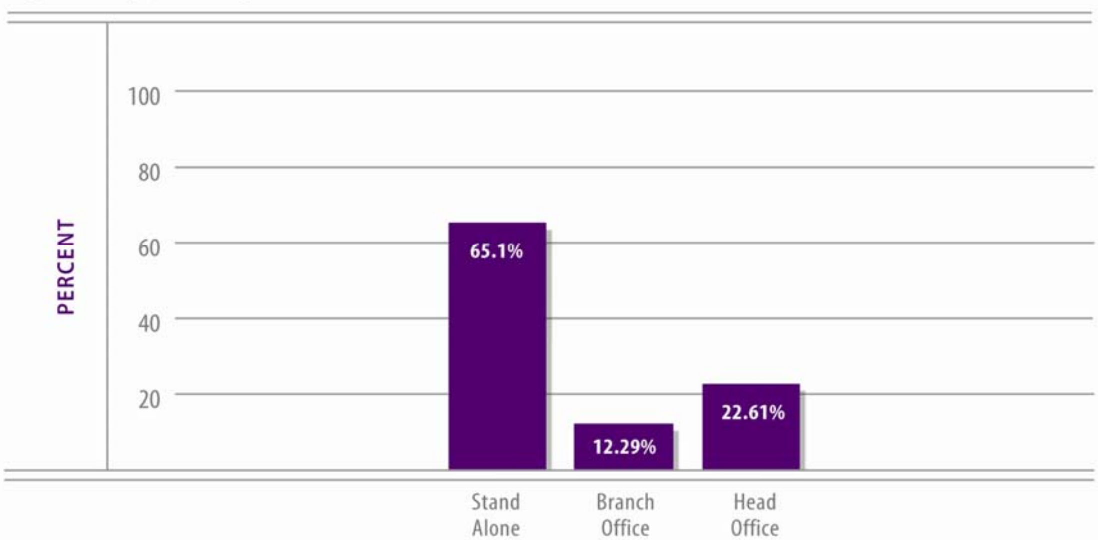
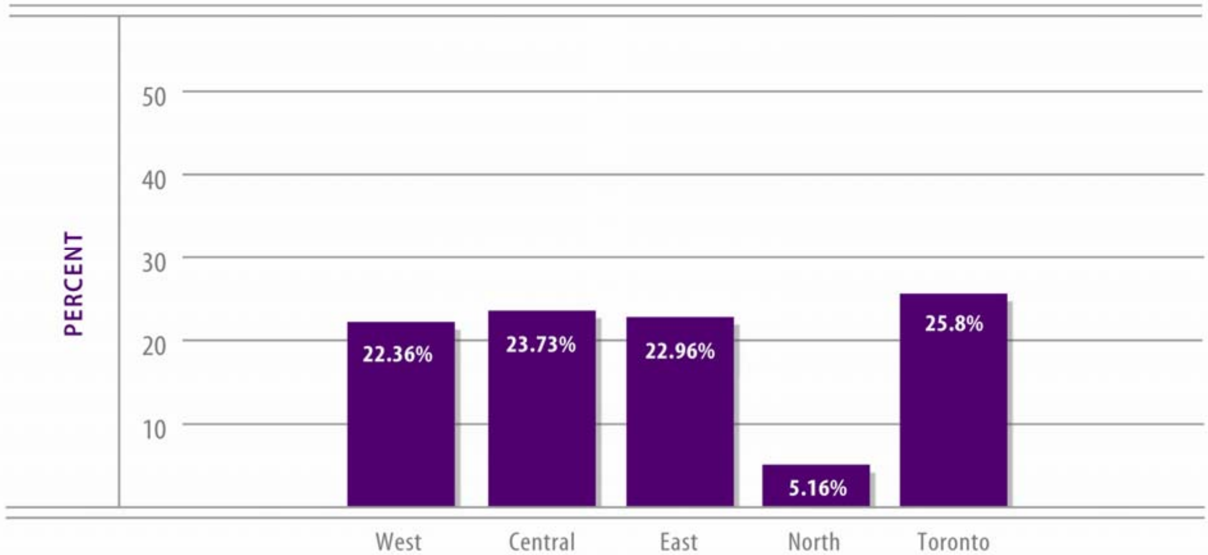
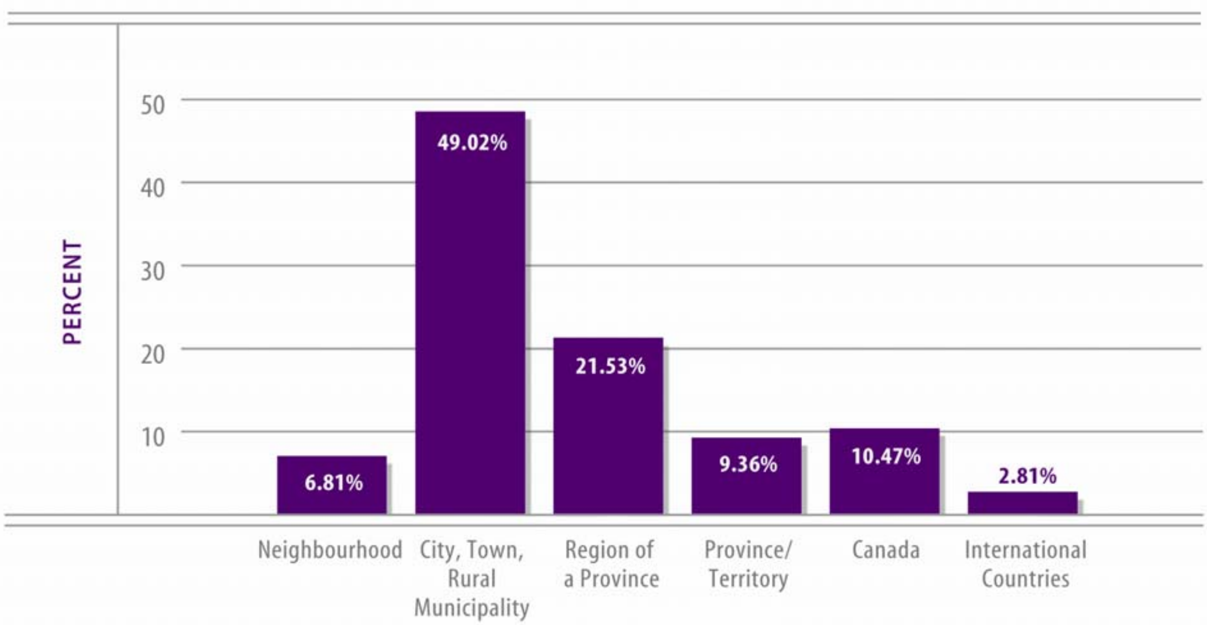


Figure 4. Regional Distribution of Organizations



With the exception of the northern region, the sample is quite evenly distributed among the regions. They serve mostly cities, towns and rural municipalities (49%), however 21% serve larger regions of a province, while nine percent (9%) have province-wide jurisdictions and ten percent service nationally (see Figure 5).

Figure 5. Geographic Area Served



Organizational size

Three different measures can be used to determine the size of a nonprofit organization: number of paid employees, number of volunteers and size of budget. Figures 6 and 7 present the distribution of paid employees and volunteers in our sample. More than 20% of the sampled organizations have no paid staff at all, and another 11% have only part-time or up to one fulltime position. Altogether, almost half of the organizations operate with fewer than 5 employees. A very small percentage of organizations employ in excess of 500 employees, with the largest reporting 10,000. The mean number of employees is 51, but the median is only 5.[5]

Figure 6. Number of Employees *(grouped from raw data)*

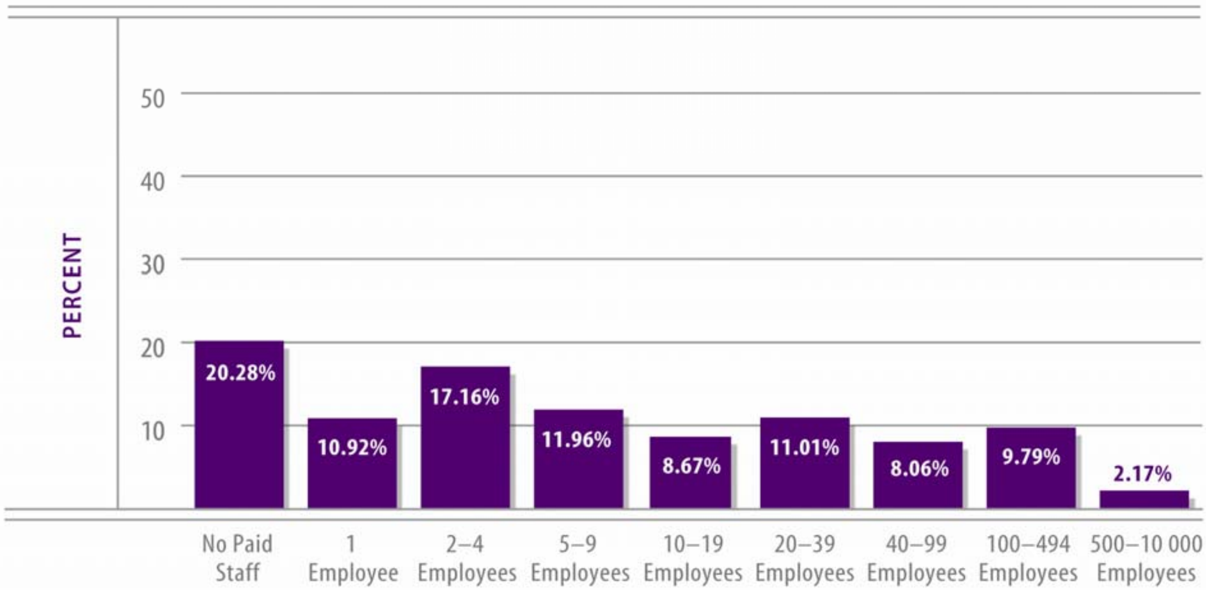
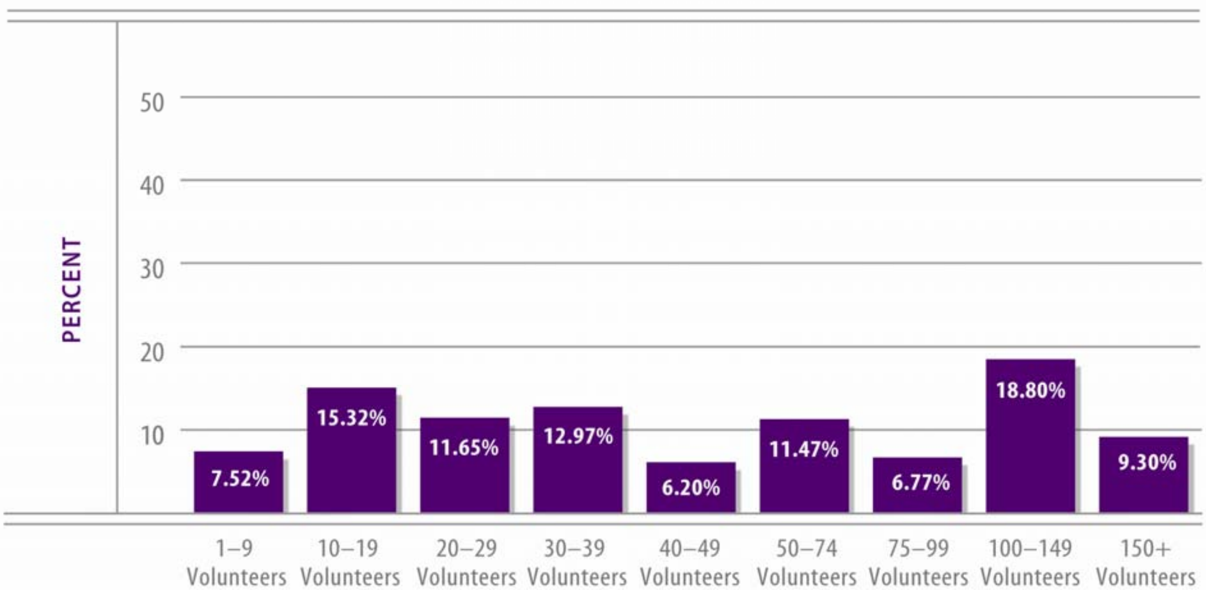


Figure 7. Number of Volunteers *(grouped from raw data)*



In contrast to paid employment, all organizations have at least one volunteer. The mean number of volunteers is 70 and the median is 45. [6] There is a significant linear relationship between the number of

[5] This is a typical finding in the nonprofit sector, where a small number of organizations employ the vast majority of workers.

[6] The means and medians quoted for both employees and volunteers are from the raw data sets.

volunteers in an organization and the number of paid staff (Eta[7] = .34, p<.000), thus the greater the number of employees, the greater the number of volunteers as well. This is demonstrated in Table 2.

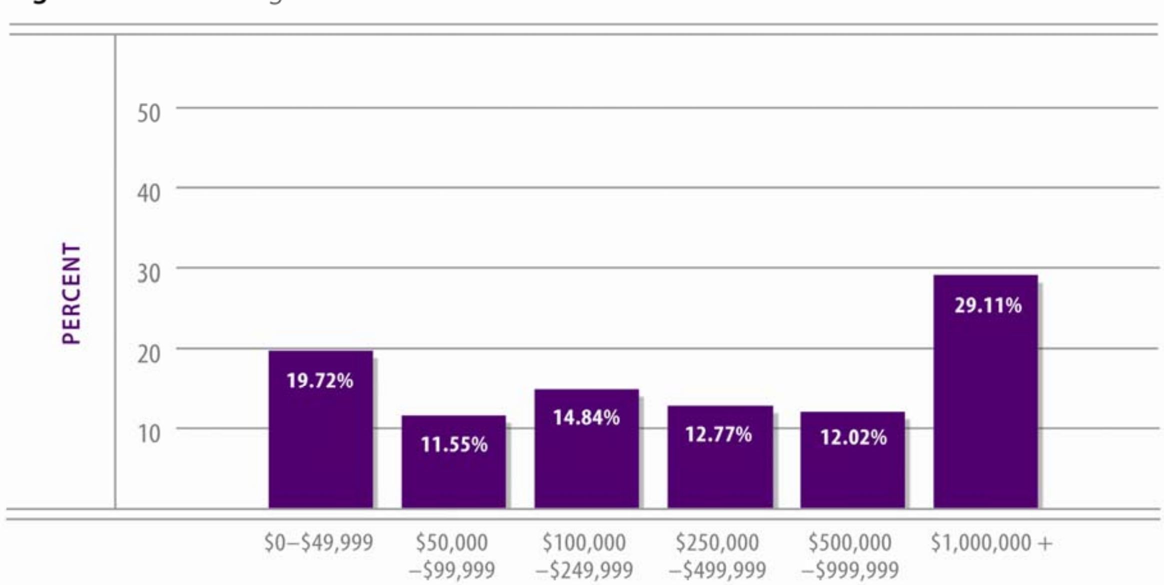
Table 2. Mean number of volunteers in by number of employees

Number of Employees (grouped from raw data)	Mean number of volunteers	N
No paid staff	43.21	208
1 employee	60.76	113
2 - 4 employees	65.52	178
5 - 9 employees	66.68	129
10 - 19 employees	71.68	92
20 - 39 employees	70.71	118
40 - 99 employees	71.63	83
100 - 494 employees	94.10	106
500 - 10000 Employees	156.64	25
Total	67.39	1052

Organizational budget

Financial measures such as revenues and budget are commonly used to describe the size of an organization. Figure 8 presents the distribution of organizations in the sample according to the size of their annual budgets.

Figure 8. Annual Budget



[7] Eta is a measure of the strength of a relationship (similar to a linear correlation coefficient) when the independent variable is expressed in categories and the dependent variable is a continuous scale.

As it happens, the distribution among the various budget categories between the largest and the smallest is quite similar. The sample is skewed towards the larger organizations. The implications of this will be discussed in the next section. The relationship between budget and size of workforce is strongly related (Eta = .413, p< .001) and although not as strong, there is a significant relationship between budget and the size of the volunteer contingent of an organization (Eta = .278, p< .01). (Please refer to Tables 3 and 4).

Table 3. Budget by staff size

Annual Budget (grouped)	Mean number of employees	N Total
$0 - $49,999	0.45	209
$50,000-$99,999	2.29	120
$100,000 - $249,999	3.96	157
$250,000 - $499,999	23.56	134
$500,000 - $999,999	22.82	127
More than $1,000,000	189.84	305
Total	61.73	1052

Table 4. Budget by numbers of volunteers

Annual Budget (grouped)	Mean number of volunteers	N Total
$0 - $49,999	40.06	186
$50,000- $99,999	52.57	111
$100,000 – $249,999	68.62	145
$250,000 – $499,999	71.46	123
$500,000 – $999,999	66.83	117
More than $1,000,000	86.53	288
Total	66.77	970

Sample representativeness

In 2006 the National Survey of Nonprofit and Voluntary Organizations published the first ever mapping of Ontario's nonprofit and voluntary sector (Scott, Tsoukalas, Roberts & Lasby, 2006). The sample attained for the present study deviates from the NSNVO Ontario report in some significant ways.

First, for the purposes of this study, institutions of religious worship, hospitals and universities were deliberately omitted. Of the remaining nonprofit subsectors, the current sample is overrepresented in the Health (19.5% vs .3%) and Social Services (26% vs. 11%) sub-sectors, and underrepresented in the Grant-making (2% vs. 12%) and Development and Housing (3.5% vs. 9%) subsectors.

The low sample numbers in Development and Housing and high numbers in the Health and Social Services can be partly explained by the fact that many organizations have multiple mandates and respondents may choose Health or Social Services when providing sheltered housing, for example. The NSNVO data was collected by means of personal interviews, where the interviewer could help pinpoint the mandate. This study relied wholly on self-identification. Many respondents selected a category but subsequently wrote comments about their difficulty to select only one category, while listing other things they do. This may account for some of the variation. However, a more likely explanation for the deviations in the sample is that this is a purposive sample; organizations chose to respond or not to our letters of invitation to fill out the survey. It may be that health and social service agencies are more concerned with issues of insurance and risk management than are grant-making organizations, for example.

Second, the current sample is skewed towards larger organizations even though special outreach efforts were made to capture the smaller organizations. Twenty-nine percent of the sample is made up of organizations with budgets in excess of $1,000,000, as compared to only ten percent reported in the NSNVO. Conversely, only 30% of organizations in the current sample have budgets of less than $100,000 as compared to 50% reported in the NSNVO. This may have implications with respect to the estimate of how many of Ontario's nonprofit organizations are uninsured. These will be discussed in the appropriate sections.

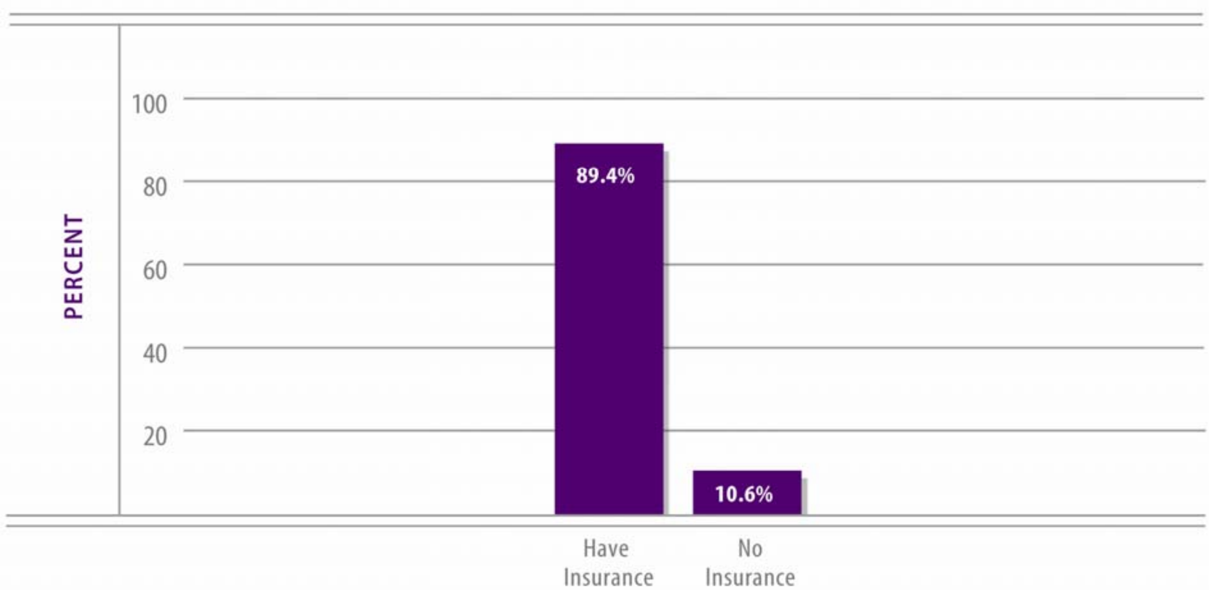
With respect to geographical reach, the present sample is almost identical to the NSNVO results. In this study a neighbourhood category was added. Combining neighbourhood with the municipal category would make the distributions even more closely aligned. Similarly with population served; although the categories in this study are defined slightly differently, the main categories – General Public, Children and Youth, Seniors, Vulnerable Populations (Special Needs in the NSNVO), have almost equivalent distributions.

Although in areas of mandate and size, the current sample deviates from the findings in the NSNVO, there is sufficient representation in all categories to provide valuable information about insurance concerns and risk management practices in all of Ontario's nonprofit subsectors.

Insured versus uninsured organizations

As Figure 9 indicates, just over ten percent of organizations in the sample are uninsured (N=120). Because the sample is over-represented by large organizations and underrepresented by small ones, this estimate of uninsured organizations is most likely too conservative.

Figure 9. Insurance Status



Correcting for this difference in distributions by weighting the current sample according to the NSNVO distributions increased the estimate uninsured organizations to almost 17%.

Analysis of organizational characteristics reveals that there are some significant differences between insured and uninsured organizations.