On the safe side

Risk, risk management and volunteering

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Acknowledgements

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Executive summary

The subject of risk and volunteering has become a major focus in the past few years. This report presents a summary of findings from research funded by the Home Office, comprising a literature review, surveys and case studies.

Although risk is technically a statistical concept, it has increasingly become a synonym for hazard or danger, with the positive side of risk overlooked. The evaluation of everything from a perspective of risk is a defining characteristic of contemporary society.

One of the most important messages about risk is that it cannot be completely eliminated. A second equally important principle is that it shouldn't be. Risk is a fact of life and risk-taking is a vital element of a healthy and innovative volunteer sector, particularly in the areas of social care, sport and adventure. However, our survey of volunteer-involving organisations revealed a predominantly negative view of risk.

Risks in the voluntary and community sector (VCS) include injuries to clients, employees, volunteers and the public; damage to property; employment practices; fraud; and legal requirements and compliance. Volunteer-related risks include exceeding boundaries and authority, substandard performance and abuse, breach of confidentiality, and misrepresenting the organisation. The main concerns of organisations in the research focused on adherence to health and safety rules and possible harm to clients, the public and volunteers. This has opened up areas of liability for voluntary organisations, including the legal status of volunteers, 'at fault' and 'no fault' liability for negligence.

Risk consciousness in the VCS has seen a dramatic increase in the past five to ten years. This is due to seven interlinked factors: the changing role of the sector and an increased reliance on volunteers; greater emphasis on the rights and protection of vulnerable people; increased legislation and regulation; greater pressure from funders and local authorities; the professionalisation of the sector; insurance increases and restrictions; legal claims and the wider context of the compensation culture.

A major stimulus to risk awareness was the sizeable increase in insurance premiums between 2001 and 2003. Among our survey organisations, three quarters have experienced increases in their insurance costs, many by a substantial amount. Some have been refused insurance or had cover withdrawn and more than one in ten have had to renegotiate their insurance. Smaller organisations, one-off events, care work, youth work and outdoor activities have been particularly affected. Just five per cent of our sample had been required by the insurer to develop a risk management plan for volunteers.

Another major factor has been an increase in lawsuits against volunteers, especially in the US, but also to a lesser degree in the UK. Nearly five per cent of our survey have had insurance or legal claims against volunteers or trustees and several court judgements for negligence have been made. Even when not pursued, complaints and claims can have a devastating effect on volunteers and organisations. Although numbers remain small, a few well-publicised cases have an impact way beyond their particular context and the threat of being sued continues to haunt organisations.

Developments in the public sector resonate with the voluntary sector. Fear of litigation has led to extreme measures to remove any element of risk in local authorities, education and other areas despite a very low incidence of accidents and claims. The broader context for the issue of risk in volunteering is the so-called compensation culture, which refers to the blame and claim mentality where there is no such thing as an accident. British politicians are attempting to dismiss the myth of the compensation culture, but ninety per cent of the organisations in our survey said it was a reality for them. Despite statistics to the contrary, it creates the impression of a deluge of claims and a sense of widespread vulnerability.

Risk management in the VCS presents special challenges because of the enormous range of activities and the limited resources and staffing of the majority of organisations. It is defined both by its aim and its methods. Its central aim is dealing with uncertainties and minimising their negative impact and, as a discipline, it comprises strategies, techniques and processes to recognise and control any threat or danger.

The growth of risk management in the VCS has been dramatic over the past decade and particularly this century. Our survey findings show that eighty-five per cent of organisations now have a written risk management plan and/or carry out risk assessments for volunteering. While smaller organisations are less likely to have these, many are risk-conscious and have a number of measures to ensure safety, such as screening, health and safety policies and child protection policies. Their ability to adopt full-blown risk management is seriously affected by a lack of resources and thus they tend to be ultra careful in how they nurture their volunteers and users, and organise and plan their work.

Most organisations recognise that risk management has significant benefits in strengthening their assets, services and accountability. It is an integral part of good organisational management and has itself

helped stimulate more professional management practices, including leadership and training for volunteers. Having safe practices and precautions in place reassures members, users, users' families, volunteers, staff and the public, as well as protecting organisations' reputations and maintaining sponsorship and funding. It can also be an important factor in getting insurance.

Risk management is not a one-off event but a process that infuses every aspect of the running of an organisation. It is most effective when built into the culture of the organisation, covering policy development, programme and service planning, partnership and service agreements, financial management, governance, and personnel and facility management. It has three central aims: prevention, minimisation of harm and liability reduction.

Risk management systems are unique to their organisations and the particular issues and risks they have to deal with in their area of work. However, from the literature and the practice of organisations in the research, there is a basic six step model: screening, induction and training, risk assessment, insurance, record-keeping and review. This model is described in the full report.

A central element of risk management is risk assessment. Organisations risk assess volunteer roles and placements, volunteers themselves, tasks and activities, environments and events. Assessment takes into account risk to people, property, income, goodwill and liability. All risk assessment works on the basis of likelihood of occurrence and severity of impact and the interplay between them. These two key aspects are graded either qualitatively or quantitatively. Evaluating risks establishes whether a risk is of concern, can be tolerated or requires control.

While insurance helps transfer liability and may also minimise harm by reducing financial loss, it should never be seen as the first line of defence against risk, but as a back-up when other precautions have failed. Organisations in the research regularly review and upgrade their insurance to ensure coverage of liability and are increasingly taking out new policies in areas such as trustee indemnity and business interruption.

It is vitally important that risk management is thoroughly documented and kept under constant review. Keeping good records enables organisations to demonstrate their practice to funders, umbrella bodies, local authorities and insurers, and helps cover them in the event of an allegation or claim, while monitoring ensures systems are up to date and reflect newly emerging risks.

The research revealed that there is much good practice and expertise in identifying and managing risk in volunteer organisations. Successful risk management has a number of elements which contribute to effectiveness. They include getting expert help from the wide range of statutory and voluntary sources that provide guidance, and devising plans and systems in a collaborative way to bring in multiple perspectives and ensure ownership.

It also helps when organisations present risk management in a positive and realistic light, emphasising benefits and the fact that it is not an alien discipline but merely a formalised version of previous common sense practice and, above all, that risk cannot be completely eliminated and therefore risk management is not about trying to do the impossible. Having a bad experience related to risk or operating in a context, such as health, where risk management is non-negotiable provides particular motivation.

The approach taken in implementing risk management can influence how successful it is. This includes developing systems and procedures that are efficient and easy to use and the way in which risk management is explained to staff and volunteers. Changing the organisational culture around risk is essential to success, so that awareness becomes second nature and is embedded in all operations.

Having sufficient staff and resources to take on the additional bureaucracy is clearly helpful in ensuring its success.

The quantity of paperwork and bureaucracy is a major problem for organisations, one of six identified by the research. The others are the time and resources needed, keeping up with new legislation and regulations, the cost of insurance, external pressures towards excessive risk aversion, and ensuring compliance.

The amount of bureaucracy in risk management puts a heavy burden on organisations and many smaller ones find it very onerous, both for any paid staff they have and for volunteers. It affects screening procedures and the completion of risk assessment forms for any and every activity. This is in large part due to the climate of risk aversion in the public sector and, with sixty per cent of our survey organisations under contract to local authorities, many are subject to extreme requirements. Organisations comment that local authorities tend to stick to the letter and require them to be over-cautious rather than looking at what legislation really intends in relation to safety and making it work for them. Funders provide further pressure by reinforcing bureaucratic requirements and hampering innovation and enterprise.

The research confirms that fears of a deterrent effect on volunteering are well-founded. In more than half the organisations in the survey volunteers have expressed anxiety about risk and around a fifth say that potential volunteers have been deterred from joining them. A similar percentage have lost existing volunteers for these reasons. Trustees have also been affected, but at a somewhat lower level. More than a quarter of all volunteers worry about risk and one in twenty have considered stopping because of this – nationally, this amounts to about one million volunteers.

Around a third of organisations have found it increasingly difficult to recruit volunteers and trustees. One in five have seen their volunteer numbers

decline, although they acknowledge that risk is not the only factor. Smaller organisations are worst affected by risk fears and declining numbers. Among sports and adventure organisations, around sixty per cent are finding it harder to recruit volunteers and forty per cent trustees

Volunteers are put off by stringent recruitment procedures, the responsibility of upholding risk management standards and the fear of being sued. This can seem to be too much pressure in what some volunteers view as a leisure activity or the expression of altruism. Risk management also has opportunity costs by distracting staff time from hands-on work and volunteer development; in the restriction of volunteer roles and the range of activities on offer; the cancellation of activities and events; increases in charges; and closures. As a result, existing volunteer roles may be less attractive and new ones are less likely to be created, both limiting the potential appeal of volunteering. One area in which these impacts may be particularly felt is youth volunteering, putting risk management and risk aversion at odds with the government's aim of recruiting one million new young volunteers.

In this country and abroad, a number of actions have been taken to address the situation of risk in the voluntary and community sector, as well as the wider context of the compensation culture. The report reviews Volunteer Protection Acts in the United States and Australia, UK attempts at legislation including the new Compensation Bill, and recent initiatives by the British government and other bodies. These are attempting particularly to address the insurance situation, moderate extreme risk aversion, control 'claims farmers' and develop alternative mechanisms for redress.

A number of ideas and proposals emerged from the research to improve the situation for volunteer organisations. They include influencing the sector's operating environment, the dissemination of good practice, and various measures to help smaller organisations such as a 'favoured group status' scheme and a risk management development fund. Changes to the CRB system are also proposed, and broader measures endorsed that would influence the compensation culture.

This research, which for the first time gives a comprehensive picture of risk and risk management in volunteer-involving organisations in England, reveals a number of positives but also some warnings about the way the situation is going. On the positive side, risk management is being widely practised and generally welcomed as an integral part of good management. But it is not without its costs.

There are widespread concerns that the sector is bogged down in bureaucracy and that measures are not proportionate to the level of risk. Organisations say that there is no flexibility in the system and that it is not an evidence-based system. People are becoming less willing to volunteer and expose themselves to risk, and are being deterred by risk management procedures and responsibility. There are serious anxieties about the future of volunteer involvement if strictures become increasingly rigid and volunteer roles continue to narrow. While accepting that old-style volunteering may be a thing of the past, there is real concern that applying to be a volunteer is becoming like job recruitment and the instinct to help out will be stifled by precaution and paperwork.

The overall assessment of the state of risk and risk management in volunteering in England is that there is concern but not a crisis. But there may be one if the drift to risk aversion continues. We need to carry out a risk assessment of risk management itself and decide which is the bigger risk.

Do we stand to lose more if the sector carries on down the route of excessive caution, in which risk management bureaucracy increases, enterprise is discouraged, volunteer roles become regimented and homogenised, and the gulf between large and small organisations widens? Or do we risk too much if we reassert the vital role of the sector in tackling difficult social problems and providing challenging activities, and moderate our demands that chances should never be taken? The choice seems to be between a sector that does things just to be on the safe side and one that is allowed to take certain risks to improve the quality of life for individuals and society. We have to decide which is the bigger risk to the future of a thriving, innovative and well-supported volunteer sector in this country.

1 Introduction

1.1 The context

The subject of risk and volunteering has become a major focus in the past few years. In response to concerns within the volunteer-involving sector, the government and other bodies have attempted to address the issue with a variety of initiatives.

In 2005 the Home Office funded an extensive research project by the Institute for Volunteering Research at Volunteering England, to include a mapping and consultation exercise, a Volunteering and Risk Forum of key stakeholders, and the development and dissemination of good practice. This report presents a summary of the findings and conclusions from the research.

The focus on risk and volunteering has been stimulated by several related but slightly different issues:

> concern within the voluntary and community sector (VCS) about the perceived increase in insurance premiums over recent years, especially in relation to public liability cover for volunteers

> concern within the VCS about the perceived increase in negligence claims for personal injury being brought against volunteers, especially in the sports and outdoor recreation field

> concern within the VCS that the apparent increase in such claims is negatively affecting the willingness of people to volunteer and expose themselves to this element of risk

> evidence from the Better Regulation Task Force and others that the so-called compensation culture is in fact a myth and that there has been no increase in recent years in negligence claims for personal injury

> recognition that many organisations within the VCS, especially smaller agencies, have been slow to embrace the need to develop appropriate risk management systems and procedures

> recognition that much good practice on managing risk exists within the VCS and that much could be achieved through wider dissemination.

The research programme addressed these issues across the whole volunteering sector, including public and private bodies which involve volunteers. It recognises that there are wider issues to do with risk and the VCS, which go beyond volunteering, but which fall outside its scope. Both the research programme and this report therefore focus on volunteering, but are expected to feed into broader debates on risk within the sector.

This report draws on three reports covering different elements of the research programme and the reader is referred to these for more in-depth findings. They are *Getting a Grip*, a literature review of around 200 UK, North American and Australian sources; *Reasonable Care?* which reports the findings of surveys of over 500 organisations and more than 1,000 volunteers and non-volunteers; and *Cautionary Tales*, case studies of risk management in twelve volunteer-involving organisations. These reports are available on: www.volunteering.org.uk/missions.php?id=1262

1.2 What is in this report?

The report begins, in Chapter 2, by establishing what risk means, the importance of risk-taking, and types of risk, liability and insurance in the VCS. Chapter 3 explains the growth of risk consciousness in the VCS arising from its changed role, increases in legal claims and insurance costs and the wider context of the compensation culture.

The report then focuses on risk management. Chapter 4 reviews definitions, practice and benefits, while Chapter 5 is devoted to principles and processes. Chapters 6 and 7 examine respectively factors contributing to success in risk management, and problems implementing it. Chapter 8 assesses the impact of risk management on volunteers.

In Chapter 9, recent developments are discussed, including volunteer protection laws abroad, UK government initiatives and proposed new legislation. This chapter also presents recommendations for further action which emerged from the research. Chapter 10 presents conclusions.

2 Risk in the voluntary and community sector

2.1 What do we mean by risk?

Although risk is technically a precise statistical concept that defines 'the product of a degree of probability and a degree of consequence', it has 'increasingly turned into a synonym for hazard or danger, linked to a politicised approach to blame' (Hood, 2005). The evaluation of everything from a perspective of risk is a 'defining characteristic of contemporary society' with risk acting as 'a prism through which any activity is judged' (Landry, 2005).

Risks are 'possibilities that human activities or natural events lead to consequences that affect what humans value. This can involve negative (adverse) consequences as well as positive ones (benefits/opportunities)' (Kloman, 2001). In the context of the voluntary, community and charity sector, risk describes 'the uncertainty surrounding events and their outcomes that may have a significant effect, either enhancing or inhibiting: operational performance; achievement of aims and objectives; or meeting expectations of stakeholders' (Charity Commission, 2005a).

While both of these sources acknowledge the good and bad sides of risk, many definitions emphasise the danger element of risk rather than its potentially enhancing effect. Risk is 'any uncertainty about a future event that threatens your organisation's ability to accomplish its mission' (Alliance for Nonprofit Management, 2004b) and 'a potentially damaging outcome of an event or situation' (NCVO, 2001). As a result 'the opportunity side of risk-taking begins to disappear. There seem to be no more good risks; all risks appear bad' (Landry, 2005).

2.2 The importance of risk

One of the most important messages about risk in the literature is that it cannot be completely eliminated. A second equally important principle is that it shouldn't be. Risk is a fact of life: 'We all face it – as individuals in our daily lives, businesses, and voluntary and community groups' (Association of British Insurers, 2005).

And volunteer organisations 'are natural risk takers' (Herman and Jackson, 2004). They 'embrace risk when the potential reward is the opportunity to improve the quality of life in a community. … effective volunteer programs can't operate without taking risks' (ibid).

Moreover, volunteers are 'on the cutting edge of change … usually responding to needs before formal institutions even acknowledge the problem': 'in many cases, no one else wants to tackle the problem or reach out to a particular client group exactly because the work is hard, perhaps still unsolvable, and with many unknowns' (Ellis, 1996). AIDS campaigning and support, needle exchanges, women's shelters, hospice development, and environmental action are all areas which have grown through taking risks and in which an 'over-focus on risk avoidance would shut down the greatest majority of volunteering' (Graff, 2003).

Choosing to take a risk can sometimes be the better, or only, option: 'if we want to change and grow, take advantage of new opportunities, or undertake some types of activity, we have to acknowledge that there will be risks involved' (NCVO, 2001). In some areas of the VCS, for example adventure, sport and play, 'elements of risk are essential'; there is 'inherent risk in giving people the opportunity for adventure and taking responsibility' (All Party Parliamentary Group, 2004).

Despite this widely accepted view, only half the organisations in our survey agreed that risk-taking is an integral part of the VCS and eight out of ten thought that risk management strategies should focus on avoiding or eliminating risk. The Health and Safety Executive, however, stresses that 'the law does not expect you to eliminate all risk' but requires organisations to protect people as far as is 'reasonably practicable' (HSE, 2006b). An organisation in the survey observed that 'voluntary organisations do have a culture of risk taking but legislation and liability dictate that this has to change'. The survey results show the growing acceptance of a predominantly negative view of risk, the level of anxiety about it and, perhaps, resistance to the view that the volunteer sector is particularly risk-prone.

2.3 Types of risk in the VCS

The Charity Commission outlines five categories of potential risk: governance, operational, financial, external and compliance with law and regulation (Charity Commission, 2005a). The most common risks identified by the US Alliance for Nonprofit Management are: injuries to clients, employees, volunteers and the public; damage to property; employment practices; fraud; and legal requirements and compliance (Alliance for Nonprofit Management, 2004b).

Volunteer-related risks include exceeding boundaries and authority, substandard performance and abuse, breach of confidentiality, and

misrepresenting the organisation (Graff, 2003). The consequence of error 'can be large, if not catastrophic' (ibid). Volunteers have the potential to damage both an organisation's finances, through payoffs or legal claims, and its reputation. This can mean the loss of its 'most valuable asset' – public trust – which has already undergone a serious decline and 'does not allow for complacency' according to NCVO and the Charity Commission (Griffith et al., 2005; Opinion Leader Research, 2005).

Organisations in the survey were conscious of all these risks. Their main concerns in relation to volunteers focused on adherence to health and safety rules and possible harm to clients, the public and volunteers. They emphasised that they have always been mindful of their duty of care and most have been conscientious about safety, but the new element in the mix is the risk of being sued. This has become the greatest fear because of the financial costs and potential liability, particularly as they affect trustees, and, above all, the damage to their reputation, income and ability to function (Third Sector, 2005a). All of these outcomes would have negative impacts on recruitment, retention and maintenance of volunteer programmes.

2.4 Types of liability in volunteer organisations

Until relatively recently, the liability of charitable and voluntary organisations was very limited and generally untested. But over the past decade in the US 'a wide variety of legal issues' has been examined in the courts including 'tort liability, wrongful employment practices, personal injury, membership discrimination, breach of fiduciary duty, director liability, and liability of parent organisation' (Oshinsky and Dias, 2002).

The most common, constituting over seventy-five per cent of all claims against US nonprofits, relate to employment law – wrongful terminations, sexual harassment and discrimination – while allegations of negligence are the most frequent under civil law (Alliance for Nonprofit Management, 2004b). In this country, the main causes of claims and legal action are negligence and personal accident, although the number of cases is small.

This section briefly reviews the major concepts of 'at fault' and 'no fault' liability. First, a look at the contentious issue of the legal status of volunteers.

The legal status of volunteers

The legal status of volunteers has raised particular concerns chiefly because it is unclear and has a host of ramifications for volunteers' rights and organisations' responsibilities and liability (Adirondack and Taylor, 2001; Adirondack, 2005).

Volunteering England, NCVO and ACEVO warn that 'organisations have to be careful that the volunteers don't become employees in the eyes of the law' and caution against creating arrangements that could be construed as a contract (NCVO, 2005a; ACEVO, 2005; Volunteering England, 2004a). US organisations are increasingly drawing up agreements with volunteers to avoid being taken to an employment tribunal (Third Sector, 2005d) and ACEVO has urged the government to bring in a legal distinction between employees and volunteers (Third Sector, 2005e).

Precedents have been set in successful claims for unfair dismissal or discrimination brought by volunteers against major volunteer-involving organisations including RNLI, the Scout Association, Relate and Citizens Advice (Home Office, 2004; Adirondack, 2005). Although some tribunals have ruled against volunteer claimants or cases have been dropped, a few volunteers have won the right to be treated as employees (Home Office, 2004; Adirondack, 2005). Many organisations remain confused about their legal responsibilities to volunteers and the issue continues to bubble under

with potentially 'catastrophic' consequences (Restall, 2005).

Organisations in our research did not see the legal status of volunteers as a major risk area. One case study organisation which makes token payments to volunteers felt their professionalism and dedication to the organisation's aims would preclude any conflict over employment status. Only one case study, a volunteer centre, recognised the problem; its manager warned of the risks of paying honoraria to volunteers and feared the tightening of employment legislation could pose a 'nightmare' for voluntary organisations.

Negligence

Negligence is enshrined in law and is less subject to interpretation than legal status. If an organisation has done something wrong, or failed to do something it should have done, and an injury or loss has occurred as a result, this constitutes 'at fault' liability for negligence. For negligence to exist, the organisation must have a 'duty of care' towards the injured party. Duty of care is the tort of negligence and requires proof of three factors: proximity, reasonable foreseeability and fault.

Duty of care is, however, 'a fluid concept' (Graff, 2003), which can vary 'with the situation, the people involved, and the community in which the incident takes place' (Alliance for Nonprofit Management, 2004b). The fluidity of the concept is recognised in the new UK Compensation Bill, with its provision for changing how a breach of the duty of care is established, allowing for the wider social value of an activity to be taken into account (see Chapter 9). This has yet to become law.

Vicarious liability

Vicarious liability is 'no fault' liability. Defined as 'indirect legal responsibility', it rests on the concept of agency. An organisation may be found liable for the actions or inactions of its agents or subordinates

although the organisation itself may be faultless. Liability is justified on the grounds that the entity that directs and benefits from an individual's actions should bear the costs of any resulting harm. The fact that an agent's action is expressly forbidden by the organisation does not absolve it from responsibility (Risk Management Research Center, 1999a; Charity Commission, 2004).

In the US and Canada, legal precedents have established that unpaid workers are agents and therefore an organisation can be held vicariously liable for the wrongful acts of its employee/volunteer, even when it has fulfilled its duty of care (Graff, 2003). A benchmark Canadian case found an organisation vicariously liable for the sexual misconduct of a volunteer because the 'employer's enterprise created and fostered the risk that led to the ultimate harm (and) created and managed the risk' (Bazley v. Curry, 1999).

Although the UK 'relies heavily' on American and Canadian test cases and 'precedents are set far beyond the borders of our own communities' (Graff, 2005), organisations in this country do not see vicarious liability as a big threat. They sometimes explicitly warn volunteers, in handbooks and project protocols, that any task they undertake that is not agreed to or authorised is at their own risk, but this does not actually remove the potential for vicarious liability. It may take a high profile test case in this country to bring the issue onto the sector's radar.

2.5 Types of insurance for volunteer organisations

There are several types of insurance which might be needed by a volunteer-involving organisation. These should be determined by an assessment of the types of exposure and losses that may occur. The main types of liability insurance for the voluntary and community sector in the UK are described below

(ABI, 2005 and see also Charity Commission, 2003, and NICVA, 2004).

> Employers' liability (EL) insurance is compulsory by law for employers and covers all staff, permanent and temporary; 'trustees are advised to regard volunteers as being employees for insurance purposes and to ensure that they are appropriately covered' (Charity Commission, 2003 and see also Health and Safety Executive, 1999).

> Public liability (PL) insurance provides cover for injuries to the public or damage to or loss of their property caused by the negligence of the organisation, which includes the actions of employees and volunteers. The term 'public' means anyone other than an employee and includes volunteers, participants, spectators, visitors and clients.

Organisations in the survey generally have PL and EL (the latter even when they do not actually employ anyone, but to cover volunteers). The following policies are also taken out by some:

> Contents and buildings insurance covers premises.

> Professional indemnity insurance protects against financial loss to clients arising from the organisation's negligence in providing professional services, including advice and information.

> Product liability insurance covers personal injury and property damage caused by a fault in the design or production of a product.

> Trustee indemnity insurance provides cover for appointed trustees against the risk of personal liability arising from any breach of trust, removing the obligation to meet the cost from their own pocket.

> Directors and Officers (D & O) insurance covers claims against an individual with management responsibility, who can be held personally responsible for lack of care and skill in carrying out their duties.

> Business continuity insurance (loss of revenue/increased cost of working) provides for the organisation to continue operating in the event of damage to premises or similar interruption.

> Fidelity insurance is 'theft by employee' insurance, covering fraud or dishonesty by employees, and legal expenses insurance covers costs in the event of legal proceedings.

Other policies such as motor insurance, equipment insurance and medical malpractice are held by some organisations, depending on the nature of their work. It is notable that many organisations in the survey have recently reviewed their policies and some have bolstered their cover by taking out new policies such as trustee indemnity or business continuity insurance.

The VCS's insurance is provided by a clutch of companies who tend to specialise in the sector. Zurich Municipal is described as the only player in the game for small voluntary organisations. Royal and SunAlliance and Allianz Cornhill also figure strongly, with some organisations using Norwich Union and Ecclesiastical. Many work through brokers Perkins Slade, Marsh Ltd. and AON Ltd.

3 The growth of risk consciousness in the VCS

Risk consciousness in the voluntary and community sector has seen a dramatic increase in the past five to ten years. This is due to seven interlinked factors: the changing role of the sector and an increased reliance on volunteers; greater emphasis on the rights and protection of vulnerable people; increased legislation and regulation; greater pressure from funders and local authorities; the professionalisation of the sector; insurance increases and restrictions; legal claims and the wider context of the compensation culture.

3.1 The changing role of the sector

The rise of risk consciousness in the VCS is significantly due to the greater exposure of the sector caused by changes in the delivery of services. In the US, Canada, the UK, Australia and other countries, the withdrawal of government from services and the promotion of a vastly expanded role for the voluntary sector has led to increased reliance on volunteers on the front lines of service delivery, often with less supervision and support (Graff, 2003). Volunteers are therefore being asked to perform work that is 'more complex, more sophisticated and more responsible' as well as more visible (ibid).

In tandem with the contracting out of services has been the development of regulatory regimes to ensure protection and performance in 'arms-length providers' (Bolton, 2004) and growing professionalisation of organisations' practice. This has been prompted by increased awareness of the rights of vulnerable people, a greater demand for public accountability, and a lower tolerance of risk among the public in general and by funders and the public sector in particular (ibid).

In the UK, the introduction of SORP 2000 (Accounting and Reporting by Charities – Statement of Recommended Practice) 'placed the reporting of risk management on the agenda of many charities for the first time' (Charity Commission, 2005a). SORP 2005 strengthens the requirement on charities to review and plan for risks (Third Sector, 2005a; Charity Commission, 2005b).

Organisations are very conscious of the higher profile they have in the pattern of service delivery and the fact that their volunteers are working with more vulnerable people and in higher risk situations. They are also aware that the shift in funding regimes has changed their relationship with statutory authorities. Sixty per cent of the organisations in the survey provided services under contract, bringing them under the authority of local government and subject to the greater risk aversion of the public sector.

Many trace the origins of their modern risk management to the introduction of legislation and regulatory frameworks which accompanied this shift, and keeping up with changes in these is one of their biggest challenges. Professional risk management is also part of the general professionalisation of the way organisations are run, and many see this as a good thing.

3.2 Insurance increases and restrictions

A major stimulus to risk awareness in relation to volunteers was the increase in liability insurance premiums which occurred between 2001 and 2003. That time period saw a considerable hardening of the insurance market, with increases in premiums caused by personal injury claims inflation, higher damages awards, the introduction of no win no fee arrangements and lower discount rates. This was a shock to the system for many VCS organisations and, although the rate of increase slowed considerably by 2004 and fewer businesses were being denied cover (ABI, 2004; OFT, 2003/2005), the experience put risk and risk management high on the sector's agenda.

Research conducted at the time showed that the cost of insurance cover rose sharply for most organisations, sometimes by several hundred per cent (Z/Yen, 2003; Alison Millward Associates, 2003; Hill, 2004; Charity Commission, 2003). This was paralleled in the US and, particularly, Australia where 'exorbitant increases in premiums (regardless of claims history)' and 'inability to find insurance at any price' have had a 'huge impact on organisations' capacity' (Australian Senate Economics Reference Committee into Insurance, quoted in Verity, 2005; Graff, 2005). As a result fees have been increased and services cut, 'community events are cancelled [and] community groups are disbanding' (Our Community, 2003; Verity, 2005).

Among our survey organisations, three quarters have seen their insurance costs go up in recent years, a third of them by a substantial amount. The smallest organisations and those in sports, adventure and exercise, were the hardest hit. Although increases had stabilised for most organisations in the last couple of years, some are still experiencing steep rises. Previous research showed that nearly one fifth of organisations were unable to get the full cover they required (Z/Yen, 2003). From our survey, three per

cent had been refused insurance or had cover withdrawn. Exclusions sometimes relate to age, with insurance not available for young or senior volunteers for certain activities, though upper age thresholds are very variable. More than one in ten organisations have had to renegotiate insurance in relation to volunteers.

Organisations had experienced withdrawals of cover at very short notice, an increasing number of exclusions particularly affecting care work, youth work and outdoor activities, and the scaling down and cancellation of volunteer activities (Alison Millward Associates, 2003). Small groups and organisers of one-off events found it increasingly difficult to get insurance at all (Hill, 2004; CCPR, 2004). In response to our survey of insurers, Royal and SunAlliance maintains that 'any refusal will be specific to the actual risk, usually because of poor risk management standards or a poor claims record' and asserts 'we have never attempted to restrict any activity, our main interest is that the risk is properly controlled'.

Past research provided evidence of 'inconsistent pricing' by insurers and little relationship between risk management activities and insurance increases (Z/Yen, 2003). Most organisations had steep premium increases despite having no incidents or claims, suggesting the lack of a relationship between their safety record and the cost of cover. In general, the VCS has a claims-to-premium ratio significantly lower than the market as a whole, but this is not reflected in the insurance industry's treatment of it (Z/Yen, 2003). Royal and SunAlliance points out that 'the whole system of insurance depends on the mutualisation of risk' and the VCS cannot be given 'preferential treatment'. However, premiums 'should be adjusted to reflect actual claims record and risk management to differentiate between a "good" risk and a "bad" one'.

Just five per cent of our sample said they had been required by the insurer to develop a risk management plan for volunteers. Royal and SunAlliance notes that a problem only arises 'if there is inadequate or no risk management' and the Association of British Insurers stresses that an insurer is more likely to be interested in the overall approach to risk management rather than focusing specifically on volunteers. According to ABI, a company would only charge a higher premium or be reluctant to quote for a risk if an organisation did not comply with legal requirements to undertake risk assessments. ABI and individual insurers have been involved in a number of initiatives to ease market conditions and improve access and mutual understanding in relation to the VCS. Although the insurance situation has improved, it is still a source of major worry to many organisations, and there is quite a widespread feeling that a communication gap exists between the industry and the VCS.

3.3 Incidents and claims

An increase in lawsuits against volunteers became apparent in the US from the mid 1980s, although 'there has *not* been an overwhelming number of legal actions, even in America' (Graff, 2003; Alliance for Nonprofit Management, 2004a). Legal cases against voluntary organisations have been fairly rare in the UK, but have been a growing cause for concern.

The survey of organisations revealed that nearly five per cent have had insurance or legal claims against volunteers or trustees, while one in ten of Third Sector's readership had been involved in risk-related litigation in the past year (Third Sector, 2005a). Several court judgements of negligence by organisations have been made, with criticism levelled against the judiciary for its poor grasp of the nature of volunteering (All Party Parliamentary Group on Adventure and Recreation in Society, 2004).

Evidence from the 'high-risk' sports and adventure sectors, while showing 'a very low overall rate of occurrence' of incidents and claims (CTBS, 2004),

highlights the disproportionate impact a complaint or claim can have. The Central Council for Physical Recreation (CCPR) observes that 'litigation, even when dismissed, places increased strains upon an already fragile voluntary system and many organisations choose to make settlements rather than face the additional costs of pursuing cases through the courts, even when innocent of wrong-doing' (CCPR, 2004).

Developments in the public sector resonate with the voluntary sector. Wide publicity is given to pre-emptive actions or 'extreme measures to remove any element of risk' such as cancelling school sports days, cutting down conker trees, and removing hanging baskets or play apparatus from playgrounds (Home Office, 2005). The Disability Rights Commission claims that risk aversion is 'literally preventing disabled people from participating fully in society' because in many local authorities 'fear of litigation is replacing sensible action' (Matthews, 2006).

In education, the NASUWT called for teachers to stop supervising extra-curricular activities 'to avoid the danger of being sued' (Reynolds, 2004), although there is actually a 'very low incidence of serious accidents on school trips' and the fear of accidents and of litigation is 'entirely out of proportion to the real risks' (Education and Skills Select Committee, 2005). Over the past ten years and thousands of school trips, only eight individual teachers have been prosecuted (Hunt, 2006).

The Health and Safety Executive has compiled a library of examples of risk aversion in various fields, identifying the primary reason as 'fear of being sued' (HSE, 2006a). Its definition of 'disproportionate risk management' includes demands for absolute safety (nil risk) that are not required in standards or law, banning activities with no real evidence of significant risk or without considering the social, educational or economic benefits of the activity, and concentrating resources on low risk hazards (ibid).

3.4 The 'compensation culture'

The broader context for the issue of risk in volunteering is the so-called compensation culture, a concept which has gained wide currency in recent years. It originates in the United States and refers to the litigious nature of modern society and the blame and claim culture where there is no such thing as an accident.

British politicians are attempting to dismiss and check its development (Better Regulation Task Force, 2004; HM Government, 2004; Blair, 2005), but ninety per cent of the volunteer-involving organisations in our survey said it was a reality for them. Its growth is due particularly to the media, the introduction of no win, no fee lawsuits and the ubiquitous advertising of personal injury claims companies, while cultural changes have placed greater focus on rights and decreased emphasis on personal responsibility.

These factors create the impression of a deluge of claims and a sense of widespread vulnerability. Most organisations believed, for example, that personal accident and injury claims in the UK had increased markedly in the past four years, while they have in fact stayed more or less static. Perceptions, however, are creating a climate of fear in the sector, which is a reflection of the larger culture of fear in society. The concept of the risk-society, dominated by the precautionary principle and suspicion of scientific and industrial developments (Beck, 1992; Furedi, 2001/2002/2005; Coker, 2002; O'Neill, 2004; Monbiot, 2004), is more fully examined in *Getting a Grip*.

4 Risk management

4.1 Risk management in the VCS

Voluntary organisations and nonprofits face 'special risk management challenges' for two main reasons: one, the enormous range of activities they provide and oversee; and two, the limited resources and staffing of the majority of organisations (Herman and Jackson, 2004). This is in contrast to large companies, government agencies and even some large voluntary organisations, which can afford to employ a full-time professional risk manager or risk management consultants.

Risk management in the VCS is defined both by its aim and its methods. Its central aim is 'dealing with uncertainties' (Graff, 2003), minimising 'the chance that bad surprises will occur' and increasing 'the chance of good surprises' (Herman and Jackson, 2004). It focuses on 'dealing with the possibility that some future event will cause harm' (Alliance for Nonprofit Management, 2004c) and 'learning to identify, control and minimise the impact of uncertain events' (Division of Public and Nonprofit Administration, 2004).

As a discipline, risk management 'provides strategies, techniques and an approach to recognise and confront any threat or danger that may hinder the organisation from fulfilling its mission' (Alliance for Nonprofit Management, 2004c). It is defined as 'the culture, processes and structures directed towards the effective management of potential opportunities and adverse effects' (Government of Western Australia, 2004).

4.2 The practice of risk management

While risk management has rapidly burgeoned into an industry with its own associations, centres and experts, the formal application of risk management systems is 'a relatively new concept to many nonprofit organisations' (Graff, 2003). It is only recently that the voluntary sectors in North America, Australia and the UK have 'begun to respond to the increasingly litigious nature of society and the growing public and legal accountability which are combining to create higher standards for all' (Ibid).

The growth of risk management in the UK has been dramatic. From surveys conducted in 2002 - 'managing risk is a new but growing area' (O'Byrne, 2003) - and 2003 - nine in ten charities were using risk management (PFK, 2003) - to the current research in 2005/6, it is clear that its adoption has proceeded at a very rapid pace.

Large organisations and umbrella bodies, particularly those in 'high-risk' sectors such as sports, adventure and play, rescue and first aid, and environmental action, have tended to lead the way in adopting extensive risk management policies and quality systems. Smaller organisations were less likely to have formal risk management (O'Byrne, 2003). A Third Sector poll of its readership found 'a staggering forty-eight per cent have no specific risk training in place' (Third Sector, 2005a). However, the VCS is not alone in this; other sectors are 'equally blasé' with risk management training in just over half of commercial organisations (ibid) and nintey-five per cent of new teachers receiving no risk assessment training (RoSPA, 2004).

Our survey findings show that risk management is now carried out in a large majority of organisations. Eighty-five per cent have a written risk management plan and/or carry out risk assessments for volunteering (a third of all organisations have a written plan). Ninety per cent have a health and safety policy covering volunteers' activities and three quarters a child/user protection policy, both important elements of risk management.

Smaller organisations are less likely to have a written plan or to carry out risk assessments. However, this does not necessarily indicate a cavalier attitude to risk. On further investigation, many are risk-conscious and have a number of measures to ensure safety, such as screening, health and safety policies and child or vulnerable adult protection policies. Their ability to adopt full-blown risk management is seriously affected by their level of resources and thus they tend to be ultra careful in how they nurture their volunteers and users, and organise and plan their work.

The fact that they do not construe this as 'risk management' indicates the somewhat obfuscating effect of jargon and underlines the finding from the survey that over a third of organisations find the language and terminology of risk management baffling. Similarly, two thirds of organisations say that *understanding* risk and how to reduce it is the most challenging aspect of risk management (Third Sector, 2005a).

Third Sector's poll found that, despite the apparent lack of risk management plans and training in some VCS organisations, ninety-six per cent think their preparation for the risks they face is excellent or good (Third Sector, 2005a). The results of our research suggest that this is not over-optimistic and

that the vast majority of organisations are very conscientious about ensuring the safety and protection of volunteers, users and the public.

4.3 What are the benefits of risk management?

Most organisations recognise that risk management has significant benefits. Experts stress that risk management is 'responsible and contemporary best practice' and an 'integral part of good organisational and volunteer management' (Graff, 2003). It 'should be viewed not as a bit of unpleasant housekeeping but rather as an opportunity to achieve your organisation's full potential' and provides 'opportunities to strengthen the organisation's assets, offer more meaningful services to individuals of a wider community, and attract a steadily growing constituency of donors, supporters, and volunteers' (Nonprofit Risk Management Center, 2005).

Ninety-three percent of UK charities identify benefits from risk management in planning, decision-making, and avoiding or responding to problems (PKF, 2004). Organisations in our survey agreed. Almost all feel that risk management strengthens organisations' assets, services and accountability and many take the view that risk awareness is simply one aspect of good volunteer management. As a hospital trust's voluntary service manager expresses it in a case study, 'good risk management is good management, full stop'.

Risk management has itself helped stimulate better management practices. A second hospital VSM noted that 'risk management has helped identify and put in place better leadership and training for volunteers'. A Royal Mencap Society group's volunteer manager commented that the new climate of risk awareness 'has kickstarted a drive to ensure best practice within organisations and has given a reason for people to

put policies, etc. into place. They shouldn't need this, but it's worked!'.

Organisations in the research felt that having safe practices and precautions in place reassured members, users, users' families, volunteers and staff. The message is, in the words of Royal Mencap Society, 'we care about our membership, we want to protect them and be professional in what we do'. A national sports body said it was important for people involved in the game to feel safe, to reassure families and put a 'positive light' on risk management to attract people to the game.

NCVO stresses the benefits of staying true to the benevolent ethos of the sector, protecting organisations' reputations, and maintaining sponsorship and funding (NCVO, 2001). Organisations in the research agreed that demonstrating good risk management practice is often necessary in the funding market. Funding bodies increasingly require this before they make an award and local authorities are generally vigilant that organisations receiving grants and contracts are not taking what they consider to be unnecessary risk. 'How will funders view us' exclaimed one survey respondent 'if we aren't as risk-free as we can possibly be!'.

Having risk management in place is also an important factor in getting insurance. This affects organisations negotiating insurance directly and those who join parent bodies' block insurance schemes. The Association of British Insurers stresses that 'good risk management will not only help your organisation to develop, but will help keep down the costs of liability insurance protection' (ABI, 2005). This connection is not strongly borne out by the research. However, *not* having risk management will certainly damage the insurance position and in some situations make cover unattainable. These key influences on an organisation's survival, and the fact that a negative incident or claim can seriously jeopardise its reputation, underline the conclusion

that 'a strong risk management program is essential to an organisation's sustainability' (Division of Public and Nonprofit Administration, 2004).

5 The process of risk management

5.1 The principles of risk management

Risk management is not a one-off event but a process that infuses every aspect of the running of an organisation. It is most effective when 'built into the culture of the organisation' and is 'continual and cyclical' (Volunteering Australia, 2003). The Australia and New Zealand Risk Management Standard AS/NZS 4360 describes it as 'holistic' in that it should cover the whole organisation. Risk management involves 'integrating precautionary measures into day-to-day operations' and should include policy development, programme and service planning, partnership and service agreements, financial management, governance, and personnel and facility management (Graff, 2003).

The approach to risk management planning depends on the size, activities, internal environment and management structure of an organisation (Volunteering Australia, 2003). Experts stress that risk management is neither technical nor complicated: 'in fact, its principles are simple and straightforward' (Graff, 2003). It has three central aims:

> prevention: 'the first priority'; it is 'clearly preferable to keep things from going wrong in the first place'

> minimisation of harm: 'minimise the magnitude of harm that accrues in the event that a risk materialises'

> liability reduction: 'a well-documented risk management system constitutes tangible proof of due diligence… and can substantially reduce the likelihood of successful legal action' (Graff, 2003)

5.2 A risk management model

There are 'several models that can be used to identify and manage risk' but they all include key measures which the Charity Commission outlines as: establishing a risk policy; identifying risks; assessing risks; evaluating what action needs to be taken; selecting risk controls; and periodic monitoring and assessment (Charity Commission, 2005a).

These are all common to the risk management process recommended by NCVO (2001), the Charity Commission (2005a), Graff (2003), Herman and Jackson (2004), the Alliance for Nonprofit Management (2004d), and Australian bodies (Volunteering Australia, 2003; Government of Western Australia, 2004; Parliament of South Australia, 2002b).

Risk management systems are unique to their organisations and the particular issues and risks they have to deal with in their area of work. However, from the risk management practice of organisations in the research, there is a basic six step model that includes: screening, induction and training, risk assessment, insurance, record-keeping, and review.

5.3 Screening

Screening focuses on ensuring that volunteers are suitable, safe and fit for their role. Guides on risk management emphasise that 'the degree of risk and trust required of volunteers will determine what levels of screening should be used' (Volunteering Australia, 2005; Patterson, 2003; Graff, 1999).

The first step is to develop a 'volunteer position description' and assess the level of risk for each role played by volunteers (Graff, 2003; Herman and Jackson, 2004). Many of the case study organisations have mechanisms to risk assess a placement or volunteering opportunity. Market Harborough Volunteer Centre has devised its own form which records the degree of contact with children and vulnerable adults, while BT's employer-supported volunteering team do not use a proforma but examine the placement from the perspective 'how can this go wrong?'.

The next step is to ensure the volunteer is suitable for the position. This includes detailed application forms, taking up references, CRB checks, other documentation checks (such as licence, MOT and insurance for drivers) and interview procedures which assess the individual for their character and suitability. Medical screening is routinely carried out in the health field and sometimes elsewhere, for example on older volunteer drivers.

In the UK, Criminal Records Bureau checks have become increasingly common and are often required where volunteers will be working with vulnerable clients. Standard checks show information held on the Police National Computer and may be supplemented by searches of the Protection of Children Act (POCA) list, Protection of Vulnerable Adults (POVA) list and information held under the Education Act 2002 (formerly known as List 99). Enhanced checks additionally search any relevant and proportionate information held by local police forces and are available for anyone involved in regularly caring for, training, supervising or being in sole charge of children or vulnerable adults, or for certain licensing purposes and judicial appointments.

In our survey, fewer than a fifth of organisations did not carry out CRB checks; a third checked all their volunteers and half checked some of them. Some organisations carry them out 'inappropriately out of fear .. to protect the organisation against litigation'

rather than from 'any real belief that checks are effective', in the view of a volunteer centre manager. Some insurers and funders are insisting on CRB checks when not required by law. However, if the CRB detects potentially ineligible requests it works with the registered organisation to clarify eligibility and provide support and advice, and may ultimately take sanctions against non-compliant organisations. Organisations recognise that CRB checks have value – nearly two thirds thought they reduced the risks of involving volunteers – but know they are no substitute for good volunteer management. A local Royal Mencap Society in the case studies commented that a check 'doesn't reduce the risk, what reduces the risk is the training/appropriate placement/support'. However, information gained from a check 'ensures these are in place' thereby 'indirectly reducing risk'.

Police and criminal records checks 'should never be used as the sole means of screening applicants' (Volunteering Australia, 2005; Herman and Jackson, 2004; Graff, 1999). Graff asserts that 'it is nothing short of dangerous to assume that risks end when a candidate has been screened, even when the screening has been rigorous' (Graff, 1999). Mechanisms such as 'buddy systems, on-site performance, close supervision, performance reviews, program evaluations, unannounced spot checks, discipline and dismissal policies and procedures are, in effect, ongoing screening mechanisms' (Graff, 1999). Many organisations in the research recognise this and have a number of these measures in place.

Screening may be particularly difficult for certain types of volunteers, including on-line volunteers, and those who are episodic or short-term, work on one-off events, who are recruited hastily for emergency or disaster response, and who are borrowed from a third party organisation, whether voluntary or corporate (Graff, 2003; Herman and Jackson, 2004). It is still important to screen as much as is practical and to ensure other risk management procedures are applied, including determining who is responsible for and has authority over the volunteers (ibid).

5.4 Induction and training

Increasingly, organisations are introducing more formal induction procedures to ensure volunteers know exactly what to expect and what is expected of them. Induction involves a comprehensive orientation to the organisation and the volunteer role, and is often accompanied by a volunteer handbook. Areas covered include volunteer responsibilities and boundaries, health and safety requirements, and the need for risk awareness in all the volunteer does.

Following induction, training is essential to ensure that volunteers have sufficient practical skills for the work, and also understand the need for risk management and can carry out risk assessments if needed. Nearly three quarters of the organisations in our survey covered issues of risk and liability and legal responsibilities in their volunteer training and nearly sixty per cent did this for trustees. However, a third don't provide trustee training and one in ten don't train volunteers.

For some, it is not necessary to train volunteers, but the issue of training (and screening) trustees is more complex. Some organisations find it difficult to view trustees as in need of training or to impose it, a hangover from an earlier era where trusteeship was a privileged role and not seen as the exercise of stringent legal responsibilities. However, most do now require and engineer risk awareness in their trustees, which is partly responsible for trustee recruitment difficulties, particularly in small organisations.

Organisations also provide ongoing training in which volunteers are reminded and updated on rules and requirements in relation to safety and risk. They do this through regular training seminars, volunteer get-togethers and newsletters. Some also provide access to external training, for example in first aid or food hygiene, enabling volunteers to take on new roles.

5.5 Risk assessment

This involves pre-emptive assessment of potential problems and hazards in a wide variety of aspects of the organisation's functioning. The distinction between 'hazard' and 'risk', so often taken as virtually synonymous, is carefully made by the Health and Safety Executive: a hazard is 'anything that may cause harm', while risk is 'the chance, high or low, that somebody could be harmed by the hazard' (Health and Safety Executive, 2006b). First identifying the hazard and then estimating the degree of risk that it poses is the essence of risk assessment.

Risk assessment is, in Royal Mencap Society's words, 'simply a careful examination of what can cause harm to people... the aim is to make sure that no one gets hurt or becomes ill'. Girlguiding UK stresses that the process 'unlike many of the approaches to risk assessment' should begin by establishing the benefits of the activity in order to 'assess the risks in context' (Girlguiding UK, 2003).

The process should ideally be carried out by a team or be a participative process involving management committee, staff, volunteers and users (Graff, 2003; NCVO, 2001). Larger organisations in the research often shared the task, under the overall management of the head of volunteers, with health and safety staff and department or team leaders. St Barnabas Hospice, for example, has recently decentralised its risk assessments, devolving them to unit managers to ensure better ownership throughout the organisation. In smaller organisations, the overall director or manager is generally responsible, sometimes aided by the management committee or trustees. Ultimate responsibility for risk management in a registered charity lies with the board of trustees (NCVO, 2001; Charity Commission, 2001/2005a).

NCVO recommends conducting a SWOT analysis, supported by research on: user satisfaction and perspectives; organisational performance in meeting targets and standards; performance in relation to

similar or 'rival' organisations; statistics on health and safety, and complaints and grievances; and new legislation and regulatory guidelines (NCVO, 2001).

Organisations in the research risk assess volunteer roles and placements, volunteers themselves, tasks and activities, environments and events. Analysing risks is a 'sifting and sorting process' (NCVO, 2001) which can take into account risk to people, property, income, goodwill and liability (Graff, 2003).

All risk assessment works on the basis of likelihood of occurrence and the consequences/severity of impact/magnitude of harm and the interplay between them (Charity Commission, 2005a; Graff, 2003; Volunteering Australia, 2003). These two key aspects are graded either qualitatively or quantitatively. Organisations use a three or five category classification such as 'rare/occasional/frequent' or 'rare/unlikely/moderate/likely/almost certain' for likelihood and 'trivial/minor/moderate/ substantial/intolerable' for consequences.

Case study organisation Youth Voice designed its own risk assessment form which shows five degrees of likelihood – impossible/remote/possible/probable/ likely – and four degrees of injury – minor/multiple/ major/fatal - by which risks are graded from 1-No risk to 5-Complete risk. Another case study, St Barnabas Hospice, examines all activities and events for 'what can happen and how it can happen' and scores likelihood and severity on a five point scale – insignificant/minor/moderate/ major/catastrophic. Each is assigned a score and a 5 x 5 risk matrix is produced, which determines 'risk priority'.

Evaluating risks establishes whether a risk is of concern, can be tolerated, or is subject to sufficient controls. Every organisation has a 'different level of uncertainty that it can tolerate', must find its own 'comfort level' (Alliance for Nonprofit Management, 2004e) and establish its own 'risk tolerance zone' (Graff, 2003). 'Inevitably' notes NCVO 'there will have to be judgements and trade-offs' (NCVO, 2001) and

the Charity Commission comments that 'the cost of mitigating a risk needs to be proportional to the potential impact' (Charity Commission, 2003). The Health and Safety Executive says a risk assessment need not be 'perfect' but it must be 'suitable and sufficient' (HSE, 2006b).

There are four basic approaches to controlling risk: avoid it by stopping the activity; eliminate the risk; accept the risk but minimise the harm; or transfer the liability (Graff, 2003). Eliminating the risk focuses on the four Ps – position, person, physical environment and performance management – and how they can be changed to prevent something going wrong. Organisations in the research used all of these strategies: stopping activities, increasing training and supervision, amending the task, modifying the environment, and changing volunteer conduct.

BTCV, for example, adapted some of its projects involving children or disabled people to remove the risk elements – such as working at height or with machinery – but still allow them to be involved. Royal Mencap Society's club leader's resource guide borrows HSE advice on control strategies, suggesting 'try a less risky option', 'prevent access to the hazard' and 'organise the work to reduce exposure' (HSE, 2003). Organisations whose volunteers work with children stipulate that a parent, teacher or other authorised person should always be present.

To minimise harm in the event of an accident, organisations have developed procedures such as safety and incident protocols, regular maintenance and upgrading of equipment, and the back-up of sensitive and vital data. First aid kits and training, mobile phones, and access for emergency vehicles are all required at activities and events.

Transference of liability, in which the organisation moves at least some of its residual liability to another party, is carried out through waivers, indemnification clauses and disclaimers or by contracting out, mutual aid agreements or inter-agency partnerships. It is

important to note these are not watertight liability excluders and should be checked for their legality (Charity Commission, 2003). It is 'nearly impossible to transfer away all liability' and when an organisation transfers a liability 'it retains an obligation to have done so responsibly' (Graff, 2003).

5.6 Insurance

Insurance is the final option for liability transfer and it may also minimise harm by reducing the secondary harm of financial loss. Insurance helps cover losses and the cost associated with investigating or defending allegations. A full review of the organisation's insurance requirements and provision should be an 'integral component' of risk control. However, it is 'a serious and potentially costly mistake to assume that buying insurance is the first line of defence against risk … insurance is merely a financial bandaid that is applied *after* the harm has occurred' (Graff, 2003).

This is because insurance does not cover everything, coverage may be voided if a court finds negligence proven, payouts may not cover all the loss, and future coverage may be cancelled or premiums increased if a claim is made. Moreover, it can never compensate for negative media attention and the loss of capable volunteers, reputation and public trust (Graff, 2003; Risk Management Research Center, 1999b; Alliance for Nonprofit Management, 2004d/e).

Organisations in the research regularly review and upgrade their insurance policies to ensure coverage of liability for volunteers, trustees and the organisation. They are increasingly extending the limit of cover from existing policies like public liability and taking out new insurance for areas such as trustee indemnity and business continuity.

5.7 Record-keeping and documentation

Documentation is 'a critical component of risk management'. It may help reduce liability: 'proof of due diligence may be the deciding factor between prevailing in a legal action, and having to deal with a devastating settlement' (Graff, 2003).

Documenting risk management includes the production of a risk register and risk plan; written evidence of volunteer management, including policies and procedures on screening, training, supervision, performance management, discipline and dismissal; service agreements and protocols outlining what volunteers are and are not allowed to do; and completed risk assessment forms.

The organisations in the research were very conscious of the need for documentation and many kept incident records, had computerised databases and maintained an audit trail of the measures taken to protect against risk. Royal Mencap Society emphasises that records 'can be used for future reference or use and can help to prove, if necessary, what precautions you have taken'. Keeping records enables organisations to demonstrate their practice to funders, umbrella bodies, local authorities and insurers, and helps cover them in the event of an allegation or claim.

5.8 Monitoring and review

Risk management 'is a process [which] never ends' (Graff, 2003). It is therefore essential to keep it under review. Many organisations in the research are involved in a constant process of monitoring their risk management and the external environment.

Monitoring involves establishing systems of data collection and analysis, and encompasses not only how well procedures are working but also takes account of changed conditions or newly emerging risks, such as changes in the client population, new volunteer roles, new technology, new facilities and new legislation. This enables organisations to introduce improvements and refinements to their practice so that small gaps are plugged and systems streamlined. Many of the case study organisations had just introduced new policies or methods, or were in the process of reviewing aspects of their risk management.

6 Success in risk management

The research revealed that there is much good practice and expertise in identifying and managing risk in volunteer-involving organisations. It is notable that organisations are adapting to the risk climate and safety codes in their particular field and finding an operating space. Most are having to accommodate new safety and regulatory standards and be accountable to funders and authorities, and are managing to do this while retaining their central focus.

The successful practice of risk management has a number of elements which contribute to effectiveness. We review six factors that emerged from the literature and the research.

6.1 Getting expert help

There is a large number of sources on risk management which organisations consult in developing their own systems. Our survey showed that nearly half of organisations had sought advice and help from external sources, although the same number had not. One in ten, and more of the smallest organisations, said they hadn't sought help and would not know where to go. This is not just a factor in deficient risk management, but also a cause of excessive risk aversion where inadequate information on risk leads to 'inadequacy of competence' (HSE, 2006a).

Organisations have drawn on a variety of sources to help them develop their risk management strategies. A common source was the Health and Safety Executive and organisations also used NEBOSH (National Examination Board on Occupational Safety and Health) and IOSH (Institute of Occupational Safety and Health) training guides and courses. A number of organisations used local authority guidelines, whether generic or in specific areas such as social services, education or youth service, and local police and fire services were also consulted. Organisations working in health and social welfare used the Department of Health guidance and Primary Care Trust standards and systems. Other authorities which were helpful included the Environment Agency, DfES, the British Safety Council and the Millennium Volunteers Government Office or local programme.

Voluntary bodies were a major source of help to organisations. Organisations used a combination of written guides and on-line information or attended training courses. The most frequently mentioned voluntary source was Volunteering England, but organisations also used guidance from NCVO and the Charity Commission, and quality standards schemes like PQASSO. Umbrella bodies such as the Association of Voluntary Service Managers, Youth Action Network, NCVYS, Sport England, BTCV, RoSPA, the Adventurous Activities Licensing Authority, the Football Association and the RFU were useful sources in specific fields of work. At the local level, several organisations had been helped by their council for voluntary service or volunteer centre.

6.2 Devising plans and systems

Guides on risk management stress the value of having a team or collective, participative process for devising plans and systems. This has the advantage of sharing the load, bringing in as many perspectives on risk as possible and ensuring a sense of ownership across the organisation.

In the research, many larger organisations used a combination of senior management/trustees and volunteer manager/project co-ordinators to produce their risk management plan, although in some the human resources manager or health and safety manager was primarily responsible. In practice, there is often a senior person with overall responsibility to whom department heads or project managers report. Several consulted organisations similar to themselves and shared information on risk and risk management in their field. Only a handful said they sourced advice from their insurer or used insurance checklists.

In smaller organisations, most of the responsibility for developing risk management falls on the director or chief officer. Ultimate responsibility for risk management in a registered charity lies with the board of trustees, and small organisations often try to appoint someone with health and safety expertise to their management committee or board. However, some groups find that their trustees are not as supportive of risk management as the context requires.

6.3 Taking a positive and realistic view

Taking a positive and realistic view of risk management helps organisations embrace and implement it effectively. This includes emphasising the benefits and opportunities, and promoting the view that it makes the organisation safer and more

accountable and improves practice overall. Organisations that promote risk management as an enhancement of their volunteer programme generally get a positive response. Royal Mencap Society stresses that implementation should be 'proactive rather than reactive' and not be a 'stick-wielding exercise' but give a 'more positive message' about managing risk.

It is also important to present risk management not as a new discipline alien to the organisation but as 'what we've always done, only formalised'. Luton and Dunstable Hospital's voluntary services manager observed that a few years ago 'taking risk as a separate entity seemed daunting' but she then realised 'we're already doing it'. This characterisation of risk management occurred repeatedly in the research: by Royal Mencap Society – 'formalising what you do normally' – and by a volunteer-run sports club – 'commonsense … formalising what we've always done'.

Anyone organising an activity, for example, checks the room or site on arrival for any potential dangers and makes sure participants will be safe. Completing a risk assessment checklist or proforma and thinking ahead a little more than in the past ensures that this is done in a way which is transparent and accountable. This kind of approach helps challenge the view that risk management is another practice imported from the private sector which inhibits voluntarism, which one in ten organisations in the survey agreed with.

Taking a realistic view of what risk management can and should achieve is vitally important. Many organisations emphasise that risk cannot be completely eliminated and therefore risk management is not about trying to do the impossible. Even when reasonable precautions have been taken 'some risks usually remain' states Royal Mencap Society in its guide to club leaders, but the aim is 'to make all risks small'. Youth Voice's guide on residentials for young people similarly stresses that 'Youth Voice accepts

that these activities cannot be entirely risk free … there will always be issues and incidents of various kinds'. Or as the voluntary services manager at a hospital trust said 'it is not possible to avoid or eliminate risk'. Organisations can only minimise risk but should not set themselves the unattainable goal of banishing it altogether.

6.4 Strong motivation and context

Organisations that have had a bad experience related to risk or that operate in a context where risk management is non-negotiable have particular motivation to implement it effectively. An experience of insurance difficulties, allegations, claims or threats of loss of funding is a strong stimulus to get things in order to prevent future risks to the organisation. BTCV's insurance crisis, detailed in the case studies, undoubtedly provoked the development of its modern day risk management infrastructure.

As in BTCV, many small groups that are members of parent bodies or part of an affiliation scheme are required to have risk management in place in order to gain accreditation and, often, to be entitled to benefits such as block insurance. While smaller organisations are frequently conscientious in their risk awareness – and sometimes feel that they are ahead of the parent body in their practices – these frameworks have encouraged some to implement policies and practices to a certain standard.

Local authorities and funders provide particular motivation (not always constructively) because of their tendency to avoid risk. Operating in an environment with a strong emphasis on safety and risk avoidance, such as the health service or conservation, also ensures proper attention is paid to risk management, or the organisation cannot continue to function. This involves integrating volunteer risk

issues into larger frameworks whose focus is clinical risk or environmental health and safety. It is the job of organisations to find 'a workable compromise', says BTCV, so that safety guidelines are 'made feasible in a volunteering context'.

6.5 Implementation

The approach taken in implementing risk management can influence how successful it is. This includes developing systems and procedures that are as efficient and easy to use as possible and the way in which they are implemented with staff and, particularly, volunteers.

NCVO stresses that all who need to comply with a risk management plan should be fully informed about it and trained to implement it. A communication strategy should include: managers, staff and volunteers; members and users and potential future members and users; grant and contract bodies; regulatory bodies; and the local community and general public (NCVO, 2001). The communication strategy may include policy development, directives, bulletins and newsletter articles, changes to job descriptions, contracts and performance management systems, staff meetings and one-to-one briefings.

Existing induction and training for paid and unpaid staff may need updating, and additional training or certification standards established. It is especially important to ensure that the board of trustees or management committee is fully informed about the risks identified in the organisation and the strategies to control them, and support if not lead on the process.

Taking the time to inform and reassure volunteers, training and supporting them well, and being prepared to sanction non-compliance all contribute to smooth implementation in volunteer management. Many organisations in the research stressed the value of

talking issues through with volunteers, explaining CRB checks, and giving volunteers reasons – both external and internal – why risk management procedures were necessary. As the hospice VSM said in the case study 'it's all in how you tell them'. And the director of North East Yorkshire Geology Trust emphasised that the way to embed risk management is 'to develop a culture, an atmosphere, and a belief in why we do things the way we do them'.

The literature on risk management, and organisations in the research, agree that changing the organisational culture around risk is absolutely vital to its success, so that awareness becomes second nature and is integrated into all aspects of management. NCVO emphasises the value of a strategic approach in which risk is incorporated into mission statements, policies, business plan, management and supervision, practice and procedures, and the culture and ethos of the organisation. Taking 'a more holistic, top-to-toe approach to risk management' helps establish this ethos or culture, which is more effective than 'a large rule-book which has to be heavily policed' (NCVO, 2001).

Organisations achieve change in the organisational culture through an education and training process for staff and volunteers, so that everyone understands exactly why it is important and is equipped with the skills to implement it, and through spreading responsibility for risk assessment rather than keeping it as a centralised and specialist activity.

Embedding risk management in organisational culture can take time, particularly in a large organisation with diffused volunteer responsibilities. Smaller organisations and new ones that are growing up in a risk management culture may have an advantage in this respect. Youth Voice, from its founding a few years ago, has evolved its policies and practices with an inbuilt awareness of risk and has not had to tackle entrenched systems or attitudes.

6.6 Staff and resources

It is clear that risk management consumes staff time and resources and that these issues have a bearing in this area as in so many affecting the voluntary and community sector. Having the capacity to take on the additional work and implications of risk management definitely helps organisations to be successful at it. This came up over and over again in the research, particularly in relation to the bureaucracy involved in risk management. Larger organisations are better able to absorb the extra workload and costs, while smaller ones with a few or no paid staff and limited reserves struggle to keep up and lose precious time from hands-on work. This does not mean that small organisations have not been successful in implementing risk management, but it is an additional burden on their workload.

7 Problems in risk management

The factors that contribute to success in risk management have their negative reflections in many of the problems that emerged from the research. These focus on six areas: the amount of paperwork and bureaucracy, the time and resources needed, the effort to keep up with new legislation and regulations, the cost of insurance, external pressures towards excessive risk aversion, and ensuring compliance.

7.1 Paperwork and bureaucracy

The amount of bureaucracy in risk management puts a heavy burden on organisations. Large organisations generally take this in their stride but smaller ones often find it onerous. One survey respondent commented on the 'increased office time in writing policies, risk assessments, etc. … heavy-handed answers to simple almost riskless activities', adding 'we are all too afraid to lift a finger without three risk assessments having to be written, duplicated and passed via trustees before you can act!'. Another observed 'we have noted that increased bureaucracy is hindering decision-making and slowing our response times' citing 'numerous occasions when we decided not to proceed with activities because of the additional administrative costs'.

The problem of excessive bureaucracy affects both staff and volunteers. The deterrent effect of having to complete paperwork both on entry into volunteering and as part of volunteer responsibilities is an important issue. 'It is becoming more difficult to interest volunteers' observed one survey respondent 'when you ask them to jump through hoops to volunteer'. Another warns of the impact of increased bureaucracy on existing volunteers who are reluctant to undergo the additional training considered necessary 'or to have to change the way they have been doing their work considering it has been working fine for years'.

The smallest organisations, often volunteer-run and with incomes below £10,000 per year, sometimes minimise their risk management requirements by calculated avoidance of risk. They eliminate areas of their work, such as involvement with vulnerable groups or public events, in order not to have to manage the potential risks. As Age Concern Okehampton says in the case studies, if they identify 'an element of risk' the decision is made 'not to go there – if we can't minimise the risk, we don't do it'.

Organisations are increasingly finding ways to streamline procedures such as that involved in carrying out CRB checks, but still find completing risk assessment forms for 'any and every activity' to be burdensome. In addition, some organisations are implementing unnecessary bureaucracy not because it's really needed but to cover themselves.

7.2 Time and resources

This is a major problem, already identified in the review of success factors. Volunteer-run clubs or groups, or those with few paid staff, have difficulty finding the time to complete risk assessments and other procedures, and to implement formal recruitment, training and management of volunteers. And they simply don't have the spare cash to set up computer systems, purchase training, pay outside experts, or meet rising insurance premiums. One survey respondent, commenting on the lack of risk management in the organisation, succinctly explains 'not enough resources to implement, full stop'.

Many of the smaller organisations complain that parent bodies, policy makers and programme managers are out of touch, imposing grand schemes and quality frameworks with little awareness of the prohibitive resource implications for those who are expected to deliver at grassroots level. They advocate the establishment of systems and funds that provide support to small organisations to develop risk management (see Chapter 9).

7.3 Keeping up with new legislation and regulation

This is a constant task for organisations, both large and small, although it is more easily accommodated in large ones. The case study volunteer centre cites 'keeping up to date with new legislation' as the main challenge in risk management. Another case study, the North East Yorkshire Geology Trust, observes that even if organisations are aware of new legislation, there can sometimes be problems understanding what it means for them. When its director sought legal advice on employment law, 'every lawyer consulted gave a different interpretation'.

Youth Voice, which has thorough and efficient risk management, nevertheless speaks for many organisations when it says 'there seems to be so much out there' in terms of new legislation and regulations and 'we have to ensure we are

compliant'. Organisations are fearful of missing some new rule or prohibition which they will find out too late exposes them to accusations of negligence, either operationally or legally.

It can also be challenging to integrate volunteer-related risk management with regulation frameworks. In the health field, for example, risk awareness focuses on issues not always relevant to volunteering and volunteer-related aspects have to be effectively meshed with clinical risk standards. VSMs often find there is little guidance on how to do this.

7.4 The cost of insurance

This is an issue for many organisations, although larger ones don't suffer as much as small ones because they are better able to absorb increases. Smaller ones which subscribe to schemes set up by their umbrella body often benefit from lower costs, but free-standing groups and those requiring additional policies find the insurance situation something of a minefield. They are often unsure how extensive their cover should be and there is an increasing tendency to enhance insurance provision which adds to the cost.

Insurers' guidance on or requirements for managing risk appear very variable and therefore organisations often do not know what they can do to keep premium costs down. As we have seen, some organisations simply avoid areas of activity where insurance will be needed.

There is also criticism of the actions of insurers in fostering a compensation culture through its 'pay-up-and-cut-the-costs mentality' (HSE, 2006a). Insurers are said to be 'reluctant to defend claims', thereby contributing to public perceptions about the ease of claiming and also increasing their payouts and hence premium costs (ibid).

7.5 External pressure towards risk aversion

Most of the organisations in the research felt this pressure. The case studies provide several examples of smaller organisations having to restrict or cancel activities because of external requirements. The ending of a Christmas dinner delivery service by Market Harborough Volunteer Centre is a classic example of 'over egging the pudding', as the manager described it. For twenty-three incident-free years, volunteers had cooked an extra dinner and delivered it to an elderly or housebound person. Social Services decided that food hygiene was a risk and that all volunteers' kitchens would need inspecting. This was not feasible for the Centre and as a result this 'very popular' service was scrapped.

The Centre would prevent something like this happening in the future by not even considering it and other organisations have similarly learned to avoid areas like public events and working in certain situations so they do not come up against risk issues. Other organisations comment that local authorities demonstrate a lack of understanding of the legislation. BTCV reports problems with local authorities which tend to 'stick to the letter' and be over-cautious rather than looking at what the legislation really intends in relation to safety and 'making it work for them'.

Funders are becoming more risk averse and requiring increasingly rigorous measures, including insisting on CRB checks when not legally required. Youth Voice's chief executive commented that funders often didn't understand small voluntary organisations and were 'not flexible'. The Director of the Geology Trust cites Awards for All as an example of a funder which was 'at first great in its simplicity' but which has increasingly bureaucratised. The Big Lottery Fund is described as having 'a public sector mentality' and as being 'incredibly risk averse'. Funders are demanding 'increasing amounts of bumph' in return for funding, and are obsessed with targets, 'measurable and achievable objectives' and 'thousands of forms', practices which have 'seeped into the voluntary sector from the private sector'.

Other organisations highlight the Catch 22 of funders ostensibly promoting innovation yet shying away at the prospect of taking any risks. Tried and tested approaches are replicated because they have a track record, while anything that pushes the boundaries is deemed too risky. Funding strategies are therefore reinforcing risk aversion and hampering enterprise and creativity in the sector.

7.6 Ensuring compliance

This affects large and small organisations in different ways. Large ones need compliance across the whole organisation and sometimes have difficulties ensuring a consistent approach across different departments and staff. Umbrella organisations have the task of maintaining compliance among their memberships and affiliates. They do this through questionnaires and affiliation partnership agreements but the resource implications of sustained policing of groups' practices tend to put active monitoring out of the frame.

BTCV says while there is generally no resistance to the idea of risk management in its affiliated groups, smaller groups have difficulty finding the time and resources to carry it out. Royal Mencap Society finds some long-established groups are reluctant to change from 'the way we've always done things' and can 'still be ad hoc in how they run things'.

Long-serving volunteers can be resistant to the formalisation of their involvement. Many organisations have lost a few older volunteers particularly when instituting CRB back checks. People feel offended

that the organisation is casting aspersions and despite efforts to persuade them of the reasons, including the dangers of a false accusation, sometimes leave or delay completing paperwork so that in the end the organisation has to let them go. Ensuring ongoing compliance with rules and procedures can also be an issue.

Organisations sometimes have problems with partners, referral or placement bodies recognising the importance of risk management. Referral organisations 'often refer clients who are too high risk for statutory bodies' and expect voluntary organisations to cope with the additional risk implications. A few NHS trusts had difficulties 'getting partners (such as WRVS, League of Friends) to understand the importance of risk management'. An organisation which takes corporate volunteers notes that some companies have pulled out of involvement 'because we insisted they had to cover their employees whilst volunteering'. However, most large companies with employer-supported volunteering programmes have thorough and effective risk management systems including insurance cover under corporate policies.

Risk management guides, and organisations in the research, stress the importance of ensuring risk management standards in any partnership arrangement. It is vital, as Age Concern Okehampton's experience shows, that organisations are not caught up in a bad situation through another organisation's neglect of procedures. Organisations that work closely with others find that they sometimes have to pull out of arrangements if they are not confident that the partner will observe the rules.

A further frustration over compliance emerged from one of the small sports clubs in the case studies. Springfield Cricket Club is very conscientious over its risk management but finds that other clubs, schools and parents do not have the same standards. They do not, for example, ensure separate changing rooms or adult escorts for the children. This adds to the club's own risk concerns and procedures.

8 The impact on volunteering

The focus on risk has had significant effects on volunteers, both directly and indirectly through impacts on organisations. Greater caution in programme planning and volunteer role development, and the increased burden of bureaucracy, limit organisations' capacity to engage and retain volunteers. Volunteers themselves worry about risk and being sued, and some are put off by paperwork and the level of responsibility. The evidence from the research suggests that fears that people are being put off volunteering are well-founded.

8.1 Volunteer numbers

In more than half the organisations in the survey volunteers have expressed anxiety about risk and around a fifth say that risk, liability and fear of litigation have deterred potential volunteers from joining them. A similar percentage have lost existing volunteers for these reasons. They report that trustees have also been affected, but at a somewhat lower level: around one in ten organisations have lost trustees or feel they have been deterred from getting involved.

Overall, a significant minority of organisations – around a third – have found it increasingly difficult to recruit volunteers and trustees. One in five says their volunteer numbers have declined, although they acknowledge that risk is not the only deterrent. Smaller organisations are worst affected by declines in numbers and by risk fears on the part of volunteers. Sports, adventure and recreation organisations are severely affected, with around sixty per cent finding it harder to recruit volunteers and forty per cent trustees.

The survey of individuals revealed that more than a quarter worried about risk in their volunteering and one in twenty have considered stopping because of this. Nationally, this percentage amounts to about one million volunteers. People over the age of forty-five were more concerned about risk than younger people.

Loss of volunteers reflects what has happened elsewhere. The insurance crunch in the US led to cutbacks in services and insurance protection in the nonprofit sector and raised volunteers' apprehension and reduced their willingness to serve. Many organisations suffered board resignations and volunteer recruitment difficulties (Alliance for Nonprofit Management, 2004a).

8.2 Screening and risk management responsibility

The recruitment procedures required of many organisations are off-putting to some volunteers. Even if they do not have to undergo a Criminal Records Bureau check (and increasing numbers do) the process is formal and often 'very rigid', making becoming a volunteer 'feel like a job, like job recruitment' as one volunteer centre manager described it. The length of time which volunteers have to wait before clearance comes back from the CRB (between four weeks and four months) means they can lose interest or find a different opportunity with less stringent screening.

The adoption of tighter screening procedures to minimise risk may be at odds with the aim of inclusiveness and diversity in volunteering.

Volunteering England warns that 'over-formal recruitment and selection procedures' are 'off-putting' to some people, including those whose first language is not English, and those with visual impairment or low levels of literacy (Institute for Volunteering Research, 2003).

Moreover, the documentation requirements for the CRB can exclude groups such as refugees and asylum seekers, new immigrants, people in supported accommodation or with mental health problems. Even some young or older people who do not fall into these categories may have trouble producing all the necessary identification documents. In addition, some organisations say they do not know what to do if a check comes back positive and may err on the side of safety by rejecting an applicant even when the offence is old or has no relation to the volunteer work.

Because 'it now takes much longer (and much more bureaucracy) to become a volunteer, the opportunity to volunteer in a casual "come along and help out" kind of way has been lost' warns a volunteer centre manager. This transformation of volunteering into something much more like a job is off-putting to both older people and young people.

Once recruited, the volunteer is warned that deviating from health and safety rules may have serious consequences and is charged with upholding risk management standards. This can seem to be too much pressure in what some volunteers still view as a leisure activity or the expression of altruism.

The level of responsibility can act as a deterrent; small sports organisations in the case studies found that the amount of paperwork needed and the additional training in risk management required of volunteers tend to put people off getting involved: 'there is too much risk to them personally and too

much unnecessary work'. One organisation, commenting on the difficulty of getting people to volunteer at club level, said 'people think, with all the risks, why the hell bother?'.

8.3 Organisational changes

Most organisations have introduced new procedures and policies to cope with risk management and are becoming bogged down in bureaucracy, filling in forms and risk assessments for any and every activity. This places a major burden on those with few or no staff and limited resources, and has significant opportunity costs through distracting time and effort from hands-on work and volunteer support.

Organisations are also limiting opportunities for volunteers. Partly as a result of insurance diktats and partly from their own fears, they are restricting volunteer roles to remove any element of risk and are withdrawing from or not venturing into areas where they feel exposed. Several organisations in the research have said no to some role development on the grounds of it being too risky and now turn down work which they might previously have undertaken, because of risk. Others 'just don't go there' if something looks potentially risky.

Some organisations that wanted to expand volunteer roles found it required too much bureaucracy or prohibitive insurance cover to make it viable. For example, this good idea never got off the ground:

'We were hoping to set up volunteering activities for trainees of one of our projects (a DIY and home maintenance training project for homeless people). We envisaged that we could create meaningful volunteer activity for our trainees to help out the elderly with small jobs… We investigated and found the insurance costs too high.'

As a result, existing volunteer roles may be less attractive and new ones are less likely to be created,

both limiting the potential appeal of volunteering. An experienced volunteer centre manager commented that there are now 'very few opportunities to volunteer with children or young people' and 'almost nothing' available for short term volunteers, particularly younger people and students on summer holiday. In a number of organisations, the extra precautions they have had to put in place when working with young people, either as clients or volunteers, have narrowed the possibilities for stimulating and interesting activities.

8.4 Cancelling activities and events

Organisations increasingly feel their only option is to call off events and activities that are deemed to pose too much risk. Seven per cent of the survey organisations had done this, often pulling out of an event because the insurance was beyond their means or would negate any income generated. Events involving the public and children's playschemes and outings are particularly difficult to insure. The Association of British Insurers stresses that market conditions in 2006 are more conducive to flexibility, wider coverage and more capacity for insuring one-off events, but some organisations still find it difficult to obtain or pay for insurance for these kinds of activities.

The increased bureaucracy and additional administrative costs of risk management have prevented organisations from proceeding with activities on numerous occasions. In the survey of individuals, fifteen per cent, and more among those aged under twenty-four, had not been able to do a particular activity because of the insurance risk. One organisation commented that 'it is better to do nothing than take a risk – so we do nothing'.

Some volunteer projects have also fallen by the

wayside, even after running without incident for many years. Two volunteer centres, featured in the case studies, pulled the plug on long-standing in-house projects – the Christmas dinner service, already mentioned, and a gardening and decorating scheme run by Cambridge and District Volunteer Centre. This was stopped, after running for over ten years, because the insurer demanded levels of supervision that the centre could not provide. The centre had already instituted CRB checks at the insurers' insistence but, under threat of withdrawal of cover, decided 'the risks were too high'. Both centres would avoid a similar situation in the future by not even considering it.

8.5 Charges and closures

Increasing charges is another course taken by organisations to cover the higher cost of insurance and risk management. Most are very reluctant to do so, but six per cent of organisations in the survey have already raised charges and a number of others say it is something they will have to consider. This affects membership fees and charges to users, both of which may reduce volunteering by limiting the potential pool of volunteers among members and the scale of activities.

This particularly affects sports and recreation groups, many of which 'are passing additional costs onto participants and thus potentially limiting the number of people who can afford to participate' (CCPR, 2004). For example, equestrian organisations have 'particular difficulties with insurance as they are perceived to be risk sports (and) have had to increase charges' as one survey respondent reported. If this continues, 'the number of activities available in the UK will decline and participation in physical activity will decrease' (CCPR, 2004). The All Party Parliamentary Group on Adventure and Recreation in Society emphasised that 'changes in the law are

needed to prevent the slow strangulation of risk-taking and adventure in sport and recreation' (All Party Parliamentary Group, 2004).

More extremely, a number of small groups in 'high risk' sports and adventure fields have closed down because they can no longer afford the insurance costs. The rate of closures across the sector as a whole is not known, but many organisations report cases of groups disbanding because they can no longer afford to operate. This removes opportunities both for participation and for volunteering.

8.6 Fear of being sued

Previous research has identified 'the worry of litigation as a principal disincentive to volunteers' and claimed that 'the motivation of volunteers is being severely undermined' (Alison Millward Associates, 2003; CCPR, 2004; Third Sector, 2005c). Third Sector notes that 'reports that would-be helpers are being put off becoming involved with charities because of a fear of being sued are certainly true' (Third Sector, 2005c). In 2003, it was claimed that action is needed 'before people withdraw their time from, and commitment to, the VCS' (Alison Millward Associates, 2003).

Organisations in the survey refer to volunteers fearing the possibility of disgrace through error and trustees being not willing to take the chance that something will go wrong and that they will be left carrying the can. Accusations and claims have a disastrous effect on volunteers and trustees, even when proved groundless. One victim of a failed court case comments that 'the volunteers involved found the whole experience very difficult and have not volunteered for us since'.

An organisation which was sued unsuccessfully described their management committee as 'living in fear for months' and Age Concern Okehampton said accusations and lengthy investigations were 'very traumatising for trustees' and had made it almost impossible to recruit new members to the board, even though the organisation was exonerated.

9 Actions and initiatives

In this country and abroad, a number of actions have been taken to address the situation of risk in the voluntary and community sector, as well as the wider context of the compensation culture. They include initiatives by the British government and legislation passed in the United States and Australia. This chapter briefly reviews these – they are covered in detail in *Getting a Grip*. This review is followed by proposals for action which emerged from this research.

9.1 Volunteer Protection Acts

In 1997, the United States federal government passed a Volunteer Protection Act (VPA) and all state legislatures now have statutes on the legal liability of volunteers. The VPA provides immunity for volunteers serving in nonprofit organisations or governmental entities for harm caused by their acts or omissions as long as the volunteer was acting within the scope of his or her responsibilities and the harm was not caused by wilful, criminal or reckless misconduct or gross negligence (Herman and Jackson, 2004).

In Australia, similar laws were brought in from 2001 as a hasty response to the 'enormous and unanticipated premium rises' for voluntary organisations and the need to halt a reported decline in volunteer numbers (Volunteering Australia, 2003). The South Australia Volunteers Protection Act, for example, states that a volunteer 'incurs no personal civil liability for an act or omission done or made in good faith and without recklessness…' (Parliament of South Australia, 2002a).

The American VPA has been accused of generating 'widespread confusion' in the nonprofit

sector and creating 'a false impression that volunteers are immune from lawsuits' (Alliance for Nonprofit Management, 2004a). It does not limit the potential liability of organisations – 'ironically, the opposite may be true' (ibid). Other possible negative consequences of this kind of law include relaxation of volunteer standards and accountability, 'over concentration on liability' and reduction of the motivation for effective risk management (Alliance for Nonprofit Management, 2004a; Herman and Jackson, 2004).

The UK attempted to pass a similar law through the Promotion of Volunteering Bill (the Brazier Bill) in 2004. It proposed reducing the risk of litigation for volunteers and included a 'statement of inherent risk' which would be presented to people involved in activities and could be taken into account in proceedings for negligence. The Act fell under opposition from major volunteering bodies who feared it would create unnecessary bureaucracy, deter volunteers and, by singling out volunteering, 'reinforce negative stereotypes that volunteering equals amateurishness' (BTCV, 2004; Volunteering England, 2004b). It was also feared that it would shift responsibility for insurance from the organisation to the volunteer, a trend which has already taken hold in the US (Third Sector, 2005d; Shifrin, 2004).

9.2 Recent UK initiatives

The government and other stakeholders have launched a number of measures and initiatives to mitigate the impact of risk, insurance and the compensation culture in this country. They include:

The Better Regulation Task Force/Commission

The BRTF is an independent advisory group established by government in 1997, now renamed the Better Regulation Commission. It set out to 'explode the urban myth' that the UK 'is in the grip of a "compensation culture"' in its report *Better Routes to Redress* (BRTF, 2004). The report cited legal reasons why the UK 'could not follow the US litigious route' and acknowledged some positive impacts of risk awareness in public services. However, it also highlighted negative effects including the trend towards risk aversion and the 'enormous drain' on resources of financing liability claims.

Government's response

The government established a Ministerial Steering Group to take forward issues in *Better Routes to Redress* and an Action Group, both co-ordinated by the Department for Constitutional Affairs. It produced a paper entitled *Tackling the "Compensation Culture"* which proposed measures such as self-regulation of claims management companies and their advertising (and formal regulation if self-policing fails), improved consumer guidance, raising the limit for personal injury claims through the small claims track, and more consideration of mediation and rehabilitation (HM Government, 2004).

The Programme of Action

The government's Programme of Action appointed the minister responsible for the voluntary sector to champion the cause of insurance for voluntary organisations by creating an ongoing dialogue with the insurance sector. It also pledged to take into account voluntary sector interests in ongoing work on

employers' liability insurance and legal costs (Home Office, 2005).

The Programme included ongoing developments such as the production of a Framework for Vocational Rehabilitation, improved guidance on liability insurance by the Small Business Service, and the launch of a pilot scheme to look at how to make claims quicker, fairer and more cost-effective, allowing insurers to predict the likely cost of claims and therefore reduce premiums. It advocated drawing together practical advice and expertise to increase the sector's capacity to deal with insurance issues and placed fresh emphasis on mediation to resolve disputes at an early stage (Home Office, 2004/2005).

Insurance and sporting, recreational and adventurous activities

In 2004, the government set up an All-Party Parliamentary Group on Adventure and Recreation in Society. It commissioned a research and consultation process which proposed an agenda for change, including: more collaboration between key stakeholders; new models of insurance provision and better communication between the VCS and the insurance industry; more mediation mechanisms; no-fault rehabilitation; training of the judiciary; regulation of claims management companies; and possible legislation to establish the principle of 'reckless disregard' (Farrell, 2004).

Education and Skills Select Committee on Education outside the Classroom

This Committee concluded in its 2005 report on extra-curricular activities that the fear of accidents and possible litigation is 'entirely out of proportion to the real risks'. It criticised the amount of 'cumbersome bureaucracy' entailed in public sector risk assessment, maintaining that this is in itself a deterrent to schools (Education and Skills Select Committee, 2005).

The Office of Fair Trading

The OFT conducted reviews of the liability insurance market, showing how the market had hardened in the early years of this century with steep rises across the board. Its follow-up report in 2005 found some stabilisation of premium increases and fewer companies being denied cover (OFT, 2003/2005).

Prime Minister's 'Compensation Culture' speech

The Prime Minister delivered a speech in May 2005 which attempted to dismiss the notion of a compensation culture and explain the perpetuation of the myth. He condemned excessive risk aversion in public bodies (such as removing hanging baskets or seesaws, despite no history of accidents), fearing it 'will stifle creativity'. He urged replacement of the compensation culture by a common sense culture on the premise that 'we cannot eliminate risk. Sometimes we have to accept: no one is to blame'. The speech introduced new bills planned by the government – a Better Regulation Bill, the NHS Redress Bill and the Compensation Bill (Blair, 2005).

The Constitutional Affairs Committee

This Committee conducted an enquiry which resulted in a report entitled *Compensation Culture* (Constitutional Affairs Committee, 2006). It warns that risk aversion is 'a concerning modern phenomenon that has an adverse effect on both individuals and the economy as a whole' and cites 'ample evidence that risk assessment is becoming an insidious problem'.

The Regulatory Impact Unit

This unit, within the Cabinet Office, has investigated the impact of regulation on school and community sport in order to 'remove bureaucratic burdens (and) unnecessary paperwork or processes'. One of its recommendations is that the Home Office, DfES and Department for Culture, Media and Sport will work with the Association of British Insurers to produce sport-specific risk assessments for the VCS, covering generic activity rather than each individual event or match, a measure that would cut paperwork and time considerably (Cabinet Office, 2005).

The Health and Safety Executive

The Health and Safety Executive has researched specific areas of risk and produced a number of guides, it posts risk management advice on its website and published in 1999 a widely-used booklet *Five Steps to Risk Assessment*, reprinted in 2003 (HSE, 2003). This is being revised for republication in 2006. In July 2005 the HSE launched a debate on the causes of risk aversion, including a web forum and involving key opinion formers such as the media, CBI and Local Government (HSE, 2006b).

The Department of Health

The Department of Health recently produced a green paper *Independence, Well-being and Choice* and a white paper *Our Health, Our Care, Our Say* which emphasise the importance of people having more choice and control over their lives and the services they receive. It is developing a framework for a common approach to social care, an important element of which is helping service providers to take risks in a context of sensible and effective risk management (Department of Health, 2005a/2006).

Insurance initiatives

The Association of British Insurers has been active in initiatives to improve the insurance situation for the VCS through representation on various committees, such as the Insurance Cover Working Group, and its own publications. It has assisted in introducing a code of practice to allow customers a minimum twenty-one days' notice of renewal terms, worked with the HSE on its health and safety indicator, and helped the equestrian sector to improve its record keeping to aid the successful defence of claims.

In 2005, ABI published *Living with Risk: Risk Management and Insurance Advice for the Voluntary and Community Sector* (ABI, 2005). This followed the launch of its successful Making the Market Work initiative in 2003 which allowed trade associations or umbrella groups, including those in the VCS, to submit their risk management schemes for assessment and certification (ABI, 2003). Sixteen schemes have been assessed to date. ABI stresses in its 2005 guide that 'good risk management will not only help your organisation to develop, but will help keep down the costs of liability insurance protection' (ABI, 2005).

The main insurers of the VCS provide products which are tailored to the sector's needs, and other policies have been produced by brokers (for example, Morton Michel's Group Policy) and VCS infrastructure bodies (such as NCVO's Encompass Insurance Policy).

Charity Logistics has proposed insurance schemes such as a charity insurance trust or mutual that would use collective purchasing power to reduce insurance costs (Charity Logistics, 2004). Previous research showed that three quarters of organisations were interested in developing group insurance schemes (Z/Yen, 2003) and nearly a fifth of organisations in our survey supported the idea.

Voluntary sector initiatives

As well as government and insurers' action, infrastructure and umbrella bodies in the voluntary sector, such as NCVO, Volunteering England and the Charity Commission have taken the initiative to examine risk issues and produce guidance. For example, NCVO and the Third Sector Foresight Consortium held a seminar 'Changing regulation and perceptions of risk' in September 2005, posing the question 'What are the implications for the working of institutions when "defensive management" dominates the government of risk?' (NCVO, 2005c).

Guidance has been produced by a wide range of voluntary umbrella organisations such as the NSPCC, St John Ambulance, Youth Action Network, NCVYS, BTCV, the Scout Association, Girlguiding UK, RoSPA, the Play Safety Forum, the Central Council for Play and Recreation and parent bodies in a variety of sports. Overseas bodies have also published guides or posted advice on their websites, much of which is relevant to the UK situation (see, for example, Graff, 1999 and 2003; Herman and Jackson, 2004; Alliance for Nonprofit Management, 2004b/c/d/e; the Nonprofit Risk Management Center, 2005; Volunteering Australia, 2003/2005).

9.3 New UK bills

The government recently introduced two new bills to Parliament: the Compensation Bill and the NHS Redress Bill. The NHS Redress Bill, published in October 2005, is aimed at 'preventing a US-style litigation culture' (Department of Health, 2005b). It would give quicker, earlier redress to patients in low monetary value clinical negligence cases and offer 'a real alternative to litigation'. The NHS Litigation Authority would oversee the scheme, establishing liability and the level of compensation or non-financial redress (ibid). However, the Constitutional Affairs Committee found a number of flaws in the Scheme, which is expected to come into force in 2007/8, including insufficient costings and operational details (CAC, 2006).

The Compensation Bill, published in November 2005, aims to do two things: limit and regulate the work of claims management companies or 'claims farmers' and clarify the existing common law on negligence 'to make clear that there is no liability in negligence for untoward incidents that could not be avoided by taking reasonable care or exercising reasonable skill' (Blair, 2005).

The key clause of the Bill says that in determining whether a defendant should have taken particular steps to meet the standard of care, a court should consider 'whether a requirement to take those steps might prevent an activity which is desirable from taking place (either at all, to a particular extent, or in a particular way), or might discourage persons from undertaking functions in connection with the activity' (Department for Constitutional Affairs, 2005). Therefore 'what amounts to reasonable care in any particular case will vary according to the circumstances'. In some cases, what would be required to prevent injury of the kind suffered 'may be such that to demand it of the defendant would be to demand more than is reasonable' (ibid).

While the regulation of claims management companies has been welcomed, many commentators and organisations in our research are sceptical about the effectiveness of changing the law on negligence. Some voluntary bodies have tentatively welcomed the provision to 'take into account the wider social value of the activity' and 'consider the inherent risk in sport and recreational activities' (CCPR, 2005), but lawyers maintain that primary legislation is not the most appropriate way of tackling the issue. The Act would inevitably prompt satellite litigation on how the law should be interpreted (APIL, 2005; Marshall, 2005). The Constitutional Affairs Committee agreed, concluding that changing the law 'is unnecessary and may prove harmful' (CAC, 2006).

Another legal development which may have an impact on risk in the public and voluntary sectors is the new corporate manslaughter legislation. This allows individuals to be prosecuted and may affect the VCS directly and indirectly. A few organisations in the research expressed concern about it and the Association of Local Authority Risk Managers (ALARM) believes that, ironically, it may 'increase the tendency of many authorities to be risk averse' (Matthews, 2006).

9.4 Recommendations for action

A number of ideas and proposals emerged from the research to improve the situation concerning risk and risk management in volunteer-involving organisations. These include the sector's operating environment, the dissemination of good practice, and various measures to help smaller organisations such as a 'favoured group status' scheme and a risk management development fund. Changes to the CRB system are also proposed, and broader measures endorsed that would influence the compensation culture.

The sector's operating environment

The actions of key players in the sector's operating environment strongly influence how it deals with risk and risk management. There is a need for greater communication, co-ordination and flexibility among stakeholders such as the government, local authorities, funding bodies, regulatory bodies, insurance industry, legal profession and judiciary. Better communication between these and the VCS itself may help educate them about volunteering, the real level of risk, and the importance of proportionate risk management that upholds some types of risk-taking as essential to a vibrant and forward-looking sector.

A case study organisation points out that the public sector will inevitably be more risk averse but that 'it would help if both sides recognised this' and found a way to 'balance bureaucracy with the goals of the voluntary sector'. Work is also needed to resolve the contradiction between the promotion of innovation and a precautionary mindset that baulks at supporting work which ventures into uncharted territory because of the risks. These contradictions need to be examined and discussed, and action taken to reverse damaging trends.

Insurance

Insurance companies are a major influence in the operating environment and the research shows that the industry's practice towards the volunteer sector has many inconsistencies. While a few insurers appear informed about volunteering and proactive in assisting with risk management, most seem to apply blanket standards and criteria which do not always have a great deal to do with what a volunteer-involving organisation actually does, what it needs, or what its incident or claims history is.

More communication between the VCS and the insurance industry, both at infrastructural levels and between individual organisations, may help improve mutual understanding. Organisations could become better informed about insurance options and companies could take account of current risk management and respond appropriately. The sector could also be proactive for example in lobbying for government to underwrite voluntary organisations' insurance, or investigating the establishment of a charity insurance mutual, which would help it regain some control over the cost of financing loss and liability.

Dissemination of good practice

While many organisations have accessed advice on risk management, significant numbers do not know what they should do and what constitutes good practice. There is therefore scope for the production and/or wider dissemination of jargon-free, easy to use guidance and models of good practice. Ninety-eight per cent of the organisations in our survey were interested in a good practice guide and this research will produce a risk management toolkit which synthesises good advice and practical measures for assessing and managing risk. This would ideally be underpinned with a support and development programme to enable access by the smaller end of the sector where help is most needed.

Better communication within the sector

There is scope for better communication and information exchange within the sector and particularly between grassroots volunteer organisations and bodies charged with administering or overseeing them. This would help parent bodies to gain confidence in members' practice and not be, as many small groups felt, out of sync with what is being done and the best ways of doing it. Ideally, umbrella bodies would consult their membership for good practice and model policies which they can incorporate and disseminate to others.

A development and support system

A development and support system is needed to help the cash-poor adopt and implement risk management. This could be administered through regional or area level bodies which would provide training, templates and practical support in establishing an appropriate system of risk management. Training would focus both on paid staff and on volunteers and would be tailored to the particular area of work, rather than generic. Rolling volunteer training programmes, centralised but delivered locally, would relieve the training burden on individual organisations.

Favoured group status

Some organisations advocate the introduction of a tiered system through which smaller groups could achieve 'favoured group status' or accreditation as a well-managed, risk-aware organisation. This would provide them with a certificate or seal of approval which would be recognised by local authorities and funders and may help lower their insurance costs. It would operate nationally but be administered regionally and locally. This would clearly be a major undertaking but would considerably ease the situation for small groups which feel they have repeatedly to validate their viability as safe and trustworthy organisations.

Risk management development fund

Financial help for smaller groups through the establishment of a fund dedicated to risk management and health and safety would be a valuable practical measure. This is especially important in the light of the increasing trend towards polarisation of resources between 'super-charities' and the vast majority of small organisations (NCVO, 2006). Small groups could gain grants to risk assess their organisation and implement a risk management system. This kickstart fund would enable many organisations to get up to speed on risk management and, ideally, would provide a small amount of ongoing support to maintain and monitor systems.

The Criminal Records Bureau

Organisations had a number of proposals for changes in the CRB system, although some acknowledge the system has improved, and the CRB is itself planning further changes. Suggestions included modernising forms to remove obsolete sections (already in hand by the CRB), more guidance to organisations in the event of a positive check, a leaflet to give to volunteers, and computerisation to increase speed and efficiency. Organisations also want the CRB to review the issues of portability (done and rejected in February 2006) and documentation requirements, in the light of exclusionary effects on many groups of people. There are concerns about proposals to make CRB checks even more rigorous and to change the registration threshold, which will exclude many smaller organisations (NCVO, 2005b).

Other measures

The research endorses the recommendations of various bodies to tackle aspects of the compensation culture that would ease pressure on organisations in both the public and voluntary sectors. They include establishing a new cultural understanding of risk and what risk management should aim to achieve. The Constitutional Affairs Committee says that what is needed is 'clear leadership by the government' including 'an educational programme making clear that risk management does not equate to the avoidance of all risk, and active engagement by the Health and Safety Executive to ensure it adopts an approach which is proportionate, does not over-regulate vulnerable sectors and instead offers appropriate advice and support' (CAC, 2006).

The Health and Safety Executive has revised its guide to risk assessment to stress these points. It encourages organisations to 'focus on the risks that really matter – the ones with the potential to cause real harm' and gives advice on how to do this 'with a minimum of fuss' (HSE, 2006b).

Further measures include establishing mandatory mediation mechanisms and a much stronger emphasis on rehabilitation.

10 Conclusion

This research, which for the first time gives a comprehensive picture of risk and risk management in volunteer-involving organisations in England, reveals a number of positives but also some warnings about the way the situation is going.

The past decade has been a very steep learning curve for much of the volunteer sector. Risk management is being widely practiced and generally welcomed. The findings are impressive in revealing the adaptability, initiative and resilience of volunteer organisations in responding to the new risk climate. Risk management is seen as 'formalising what we do anyway' and as an integral part of good management. But it is not without its costs. These particularly affect small organisations, although the deterrent effect of risk and risk management can affect volunteers in any type of organisation.

Organisations agree that regulation and risk fears are here to stay and have to be accommodated, but there are widespread concerns that the sector is bogged down in bureaucracy. Risk management has opportunity costs through distracting time and effort from hands-on work – particularly damaging in small organisations – and by limiting opportunities for volunteers. Strictures are based on fear not need, and are not proportionate to the real situation of risk in volunteer organisations. Organisations feel that there is no flexibility in the system and that it is not an evidence-based system. This survey respondent takes a measured view:

'I feel that sometimes risk management is related to fear of litigation rather than as a way of promoting an environment where volunteers and clients can feel confident about the service provided, in a way which is positive and that indicates the organisation takes seriously its responsibility to those involved. No risks can be entirely eliminated, but an organisation can only do its best to ensure that risk is as low as possible.'

Almost no organisation believes risk and risk management are things they can afford to ignore. But there are unique sensitivities in a sector which relies heavily on unpaid people to deliver much of its work. This comment is particularly relevant:

'As an organisation we realise that we can not ignore the need to take appropriate action to recognise and minimise risk, but do not want to alienate our core of volunteers by doing this. It will be a very fine balance to strike and the implementation of any change will need to be carried out in a delicate and measured way.'

The issues which stimulated the research are largely confirmed. People are becoming less willing to volunteer and expose themselves to this kind of risk. Volunteers are put off by stringent recruitment procedures, the responsibility of upholding risk management standards and the fear of being sued. Organisations' actions in restricting volunteer roles and cancelling activities limit opportunities and reduce the potential appeal of volunteering.

Increases in insurance premiums are not just perceived but real, and have major costs for some organisations in limiting their capacity. Legal claims against volunteer-involving organisations have increased, but started from virtually zero and are still not by any means of epidemic proportions. Nevertheless, a few cases can have an impact way beyond their particular context and the threat of being sued continues to haunt organisations. While the government may assert that the compensation culture is a myth, it is certainly perceived in the volunteer sector as a real threat.

Most of the organisations in the research think that risk aversion will continue to dominate. There are encouraging signs, however, that this trend is being challenged. The Association of Local Authority Risk Managers (ALARM) which represents local authorities, healthcare trusts, the police service and other publicly funded bodies, believes 'the switch from risk avoidance to risk management is already starting to happen' and commits itself to further decreasing the 'over-controlling of risk' (Matthews, 2006).

There are serious concerns for the future of the VCS and for volunteer involvement if strictures become increasingly rigid and organisations continue to overcompensate for risk. While accepting that old-style volunteering may be a thing of the past, they are concerned that applying to be a volunteer is becoming like job recruitment and the volunteering instinct to help out will be stifled by precaution and paperwork. As the volunteer centre manager said, there is a 'fine line between helping people volunteer and putting in safeguards that discourage them – it's a difficult balance to maintain, but we have to'. One of the areas affected is youth volunteering, which puts risk aversion at odds with the government's aim of recruiting one million new young volunteers.

While organisations are working hard to get the balance right, they shouldn't have to do it in isolation. There is further scope for influencing key figures in their operating environment – policy makers, local authorities, funders, regulators, insurers, lawyers and the judiciary – towards greater awareness, co-operation and flexibility in their dealings with the volunteer-involving sector. A number of influential reports and initiatives are already making progress in some of these areas, but there is still much to do to resolve the contradictions which the research has

highlighted, for example between the adoption of national schemes and standards and the capacity of grassroots organisations to administer them, and between the encouragement of innovation and risk averse funding regimes.

The overall assessment of the state of risk and risk management in volunteering in England is that there is concern but not a crisis. This is an excellent time to examine the pressures and trends that have got us to this point and decide whether we want to continue the drift to risk aversion.

The Minister for Communities and Local Government warned in March 2006 against 'strangling creativity, innovation and risk-taking' in voluntary service providers and hailed the VCS's role as 'advocates, campaigners and protesters – the thorn in the side of Government and the establishment' (Milliband, 2006). His challenge to the sector to create 'disruptive innovations' and develop 'a genuine culture of social enterprise' (ibid) will prove to be a hollow one if risk aversion cannot be controlled.

The research shows that the vast majority of volunteer-involving organisations are on the side of safety and have always had risk awareness. The new element in the mix is liability awareness and there is no doubt that the prospect of being accused or taken to court is terrifying much of the sector. But it is time to carry out a risk assessment of risk management itself and decide which is the bigger risk.

Do we stand to lose more if the sector carries on down the route of excessive caution, in which risk management bureaucracy increases, enterprise is discouraged, volunteer roles become regimented and homogenised, and the gulf between large and small organisations widens? Or do we risk too much if we reassert its vital role in tackling difficult social problems and providing challenging activities, and moderate our demands that chances should never be taken? The choice seems to be between a sector that does things just to be on the safe side and one that is allowed to take certain risks to improve the quality of life for individuals and society. We have to decide which is the bigger risk to the future of a thriving, innovative and well-supported volunteer sector in this country.

References

ACEVO, 'Newsflash – acevo seeks clarification of volunteer role' (Acevo NoticeBoard, April, 2005).

Adirondack S, 'Updated Information for Chapter 35: Voluntary Sector Legal Handbook', www.sandy-a.co.uk/vslh/35vols.htm, retrieved 20/10/05 (2005).

Adirondack S and Taylor JS, *Voluntary Sector Legal Handbook*, 2nd edition (London: Directory of Social Change, 2001).

Alison Millward Associates, *Research into Insurance Cover for the VCS in England. Report for the Active Community Unit* (Birmingham: AMA, 2003).

All Party Parliamentary Group on Adventure and Recreation in Society, 'Paper in response to Martin Farrell's presentation', supplied by Martin Farrell (London, 3 November, 2004).

Alliance for Nonprofit Management, 'What effect will the Volunteer Protection Act of 1997 have on the potential liability of our nonprofit and our volunteers?', www.allianceonline.org/faq, retrieved 06/09/05 (2004a).

Alliance for Nonprofit Management, 'What are the most common risks facing nonprofit organisations?', www.allianceonline.org/faq. retrieved 06/09/05 (2004b).

Alliance for Nonprofit Management, 'What are the most dangerous myths about nonprofit liability (or risk management)?', www.allianceonline.orf/faq, retrieved 06/09/05 (2004c).

Alliance for Nonprofit Management, 'Developing a risk management program', www.allianceonline.org/faq, retrieved 06/09/05 (2004d).

Alliance for Nonprofit Management, 'What is risk management?', www.allianceonline.org/faq, retrieved 06/09/05 (2004e).

Association of British Insurers, *Making the Market Work: Initiative for the Assessment of Trade Association Health and Safety Schemes* (London: ABI, 2003).

Association of British Insurers, *ABI evidence to the Education and Skills Select Committee inquiry into education outside the classroom* (London: ABI, 2004).

Association of British Insurers, *Living with Risk: Risk Management and Insurance Advice for the Voluntary and Community Sector* (London: ABI, 2005).

Association of Public Injury Lawyers, 'The Compensation Bill', supplied by Martin Farrell (APIL presentation to the APPG on Insurance and Financial Services, 12 July, 2005).

Bazley v. Curry (1999) S.C.J. No. 35, Para.52. Canadian Supreme Court, cited in Graff L (2003).

Beck U, *Risk Society: Towards a New Modernity* (London: Sage Publications, 1992).

Better Regulation Task Force, *Better Routes to Redress* (London: BRTF, 2004).

Blair T, 'Compensation Culture Speech', given at Institute of Public Policy Research, 26 May, 2005. www.number-10.gov.uk/output/Page7562.asp, retrieved 01/07/05 (2005).

Bolton M, 'The impact of regulation on voluntary organisations', www.ncvo-vol.org.uk/?id=1281, retrieved 08/09/05 (London: NCVO, 2004).

British Trust for Conservation Volunteers, 'Threat posed by Volunteering Bill', letter on behalf of six charities concerning the Promotion of Volunteering Bill, 20 June (2004).

Cabinet Office (with DCMS), 'Making a Difference: Reducing burdens in school and community sport', www.cabinetoffice.gov.uk/regulation/documents/regulatory_reform/pdf/sportsum.pdf, retrieved 05/04/06 (London: Cabinet Office, 2005).

CCPR, Straw poll of members on insurance and litigation, internal document supplied by CCPR (CCPR, 2004).

CCPR, 'Briefing note E-Politix on the Compensation Bill' (CCPR, 3 November, 2005).

Charity Commission, 'CC62 – Charities SORP 2000: What has changed?', www.charity-commission.gov.uk/publications/cc62.asp, retrieved 09/07/05 (London: Charity Commission, 2001).

Charity Commission, 'CC49 – Charities and Insurance', www.charity-commission.gov.uk/publications/cc49.asp, retrieved 09/07/05 (London: Charity Commission, 2003).

Charity Commission, 'Vicarious Liability of a Charity or its Trustees', www.charity-commission.gov.uk/supportingcharities/vicarious.asp, retrieved 11/11/05 (London: Charity Commission, 2004).

Charity Commission, 'Charities and Risk Management', www.charity-commission.gov.uk/investigations/charrisk.asp, retrieved 09/07/05 (London: Charity Commission, 2005a).

Charity Commission, 'SORP 2005: What has changed?', www.charity-commission.gov.uk/investigations/sorp/sorp05change.asp, retrieved 02/10/05 (London: Charity Commission, 2005b).

Charity Logistics, 'Charity Insurance Trust' and 'Charities PCC' in VCS Risk Management – 22 October Meeting Conclusions, email sent by George Cook to HM Treasury and Home Office, www.charitylogistics.org/newsrelease/insurance/module_index.php?id=123, retrieved 10/09/05 (10 November, 2004).

Coker C, 'Risk management goes global', paper given at the Goodenough-Chevening Conference on Risk, 12 April 2002, Adelphi Paper No 345 Globalisation and Security, www.spiked-online.com/articles/00000006D8BB.htm, retrieved 07/09/05 (International Institute for Strategic Studies, 2002).

Constitutional Affairs Committee, 'Compensation Culture: Third Report of Session 2005-06 Volume 1 (London: House of Commons, 2006).

CTBS, *Survey of AALA Licensed Activity Providers* (CTBS and Adventure Activities Licensing Authority, 2004).

Department for Constitutional Affairs, *The Compensation Bill – Explanatory Notes* (London: DCA, 2005).

Department of Health, *Independence, Well-being and Choice: Social Care Green Paper* (London: Department of Health, 2005a).

Department of Health, 'Better NHS response for patients harmed by healthcare', press release, 13 October, www.dh.gov.uk/PublicationsAndStatistics/PressReleases, retrieved 14/10/05 (London: Department of Health, 2005b).

Department of Health, *Our Health, Our Care, Our Say: a new direction for community services* (London: Department of Health, 2006).

Division of Public and Nonprofit Administration, *Connect!* (University of Memphis School of Urban Affairs and Public Policy, Spring issue, 2004).

Education and Skills Select Committee, *Education outside the Classroom, Second Report* (London: United Kingdom Parliament, 2005).

Ellis S, 'Volunteering is inherently risky', 'On Volunteers' column, *The NonProfit Times*, www.energizeinc.com/art/nprisk.html, retrieved 10/07/05 (1996).

Farrell M, *A good dose of reality* (London: Get2thePoint, 2004).

Furedi F, 'You can't ban accidents', *Spiked*, www.spiked-online.com, retrieved 07/09/05 (24 August, 2001).

Furedi F, *Culture of Fear: Risk-taking and the Morality of Low Expectation* (London: Continuum, 2002).

Furedi F, 'When fear leaves us paralysed', *The Observer*, www.guardian.co.uk/katrina/story/0,,1562464,00.html, retrieved 07/09/05 (04 September, 2005).

Girlguiding UK, *Being Prepared: An Introduction to Risk Assessment* (London: The Guide Association, 2003).

Government of Western Australia, 'Can you risk it? An introduction to risk management for community organisations', www.ozvpm.com/resourcebank/resource_riskmgt.htm, retrieved 10.09.05 (Government of Western Australia, 2004).

Graff LL, *Beyond Police Checks: The Definitive Volunteer and Employee Screening Guidebook* (Ontario: Linda Graff and Associates, 1999).

Graff LL, *Better Safe… Risk Management in Volunteer Programs and Community Service* (Ontario: Linda Graff and Associates, 2003).

Graff LL, 'Australian observations: An interview with Linda Graff', www.ozvpm.com/pasthottopics/november04.htm, retrieved 10/09/05 (2004).

Graff LL, Personal communication in interview and by email (September/October 2005).

Griffith M, Wilding K and Jochum L, *Voluntary Sector Strategic Analysis 2005/06* (London: NCVO, 2005).

Health and Safety Executive, *Employers' Liability (Compulsory Insurance) Act 1969: A Guide for Employers*, www.hse.gov.uk/pubns/hse40.pdf, retrieved 13/09/05 (London: HSE, 1999).

Health and Safety Executive, *Five Steps to Risk Assessment* (London: HSE, 2003).

Health and Safety Executive, 'We need a common sense approach to risk management – Hunt', press release, (13 July, 2005).

Health and Safety Executive, 'Evidence based evaluation of the scale of disproportionate decisions on risk assessment and management. Work in progress: Media reports and associations interviews', prepared by Greenstreet Berman Ltd. (London: HSE, 2006a).

Health and Safety Executive, *Five Steps to Risk Assessment* (draft) (London: HSE, 2006b).

Herman ML and Jackson PM, *No Surprises: Harmonizing Risk and Reward in Volunteer Management* (Washington DC: Nonprofit Risk Management Center, 2004).

Hill N, 'Risky business', *Voluntary Sector*, (October, 2004).

HM Government, 'Tackling the "Compensation Culture": Government Response to the Better Regulation Task Force Report: Better Routes to Redress' (London HM Government,10 November, 2004).

Home Office, *Insurance Cover and the Voluntary and Community Sector: Programme of Action* (London: Home Office, 2004).

Home Office, *Paper summarising government action to address risk and insurance issues in the VCS* (London: Home Office, 2005).

Hood C, 'Where "Social Risk" meets Risk of Blame: The Architecture of Blame Avoidance', Third Sector Foresight Seminar 'Changing Regulation and Perceptions of Risk', seminar report, www.ncvo-vol.org.uk/3s4, retrieved 15/10/05 (2005).

Hunt Lord, 'Lord Hunt dispels "myth" surrounding school activities', speech at Safe Schools, Healthy Schools conference, press release (London: Department for Work and Pensions, 02 March, 2006).

Institute for Volunteering Research, *Volunteering for All? Exploring the link between volunteering and social exclusion*, Research Bulletin (London: Volunteering England/Institute for Volunteering Research, 2003).

Kloman F (ed.), 'Draft Consensus Report: Proposal towards a Project on the Development of a Compass for Risk Analysis', www.riskreports.com/compass.html, retrieved 10/09/05 (Risk Management Reports and Seawrack Press, Inc., 2001).

Landry C, 'Risk and the creation of liveable cities' in *What are we scared of?* (London: CABE Space, 2005).

Marshall D, 'Proposed Compensation Bill', www.anthonygold.co.uk/page.cfm/link=203, retrieved 20/07/05 (Anthony Gold Solicitors, 2005).

Matthews V, 'Disability rights: the dangers of risk aversion' *The Independent*, www.education.independent.co.uk/careers_advice/article342319.ece, retrieved 15/02/06 (02 February, 2006).

Milliband D, 'Speech on voluntary sector partnership', NCVO Annual Conference 'Putting people in control' (21 February, 2006).

Monbiot G, 'The Myth of Compensation Culture', *The Guardian* (16 November, 2004).

NCVO, *Managing Risk: Guidelines for medium-sized voluntary organisations* (London: NCVO, 2001).

NCVO, *The legal status of volunteers* (London: NCVO, 2005a).

NCVO, 'Calls for participation in CRB consultation', www.ncvo-vol.org.uk, retrieved 10/11/05 (27 July, 2005b).

NCVO, 'Changing regulation and perceptions of risk', Third Sector Foresight Consortium seminar report, www.ncvo-vol.org.uk/3s4riskseminar, retrieved 10/11/05 (London: NCVO, 2005c).

NCVO, 'The UK Voluntary Sector Almanac 2006: The State of the Sector', (summary), www.ncvo-vol.org.uk/research/index.asp?id=2380&fID=158, retrieved 28/02/06 (London: NCVO, 2006).

NICVA, *Advice Note 12: Insurance*, www.nicva.org, retrieved 10/09/05 (Belfast, NICVA, 2004).

Nonprofit Risk Management Center, *Managing Risk in Nonprofit Organizations*, http://nonprofitrisk.org/pubs/mngrisk.htm, retrieved 01/07/05 (John Wiley, 2004).

O'Byrne J, 'Balancing risks and rewards – an investment in the future', (London: PKF/CFDG, 2003).

Office of Fair Trading, *An analysis of current problems in the UK liability insurance market* (London: OFT, 2003).

Office of Fair Trading, 'Studies – Liability insurance market follow-up review', http://www.oft.gov.uk/business/market+studies/insurance2.htm, retrieved 03/08/05 (London: OFT, 2005).

O'Neill B, 'More sorry than safe', *Spiked*, www.spiked-online.com/articles/0000000CA592.htm, retrieved 07/09/05 (16 June, 2004).

Opinion Leader Research, 'Report of findings of a survey of public trust and confidence in charities', www.charity-commission.gov.uk/Library/spr/pdfs/surveytrustrpt.pdf, retrieved 11/11/05 (London, Opinion Leader Research, 2005).

Oshinsky J and Dias GM, 'Liability of Not-for-Profit Organisations and Insurance Coverage for Related Liability', *International Journal of Not-for-Profit Law*, Volume 4 Issues 2/3, www.icnl.org/JOURNAL/vol4iss23/oshinsky1.htm, retrieved 07/11/05 (May, 2002).

Our Community, 'Submission to the Inquiry into public liability insurance and professional indemnity insurance', www.communityinsurance.com.au (Victoria, 2003).

Parliament of South Australia, *The Volunteer Protection Act 2001,* www.parliament.sa.gov.au/catalog/legislation/acts/v/2001.65.htm, retrieved 10/09/05 (Adelaide: Parliament of South Australia, 2002a).

Parliament of South Australia, *Risk management for community organisations: reference manual*, www.ofv.sa.gov.au/pdfs/Risk%20Mgt%20-%20The%20Manual.pdf, retrieved 10/09/05 (Adelaide: Parliament of South Australia, 2002b).

Patterson JC, 'Does Liability for negligent hiring apply to volunteers?', from Staff Screening Tool Kit, www.energizeinc.com /art/asta.html, retrieved 10/09/05 (2003).

PKF, 'Reaping the rewards – is risk management proving its worth – 2003 survey results', retrieved 18/10/05 (London: PKF/CFDG, 2004).

Restall M, *The legal status of volunteers: Consequences for volunteer-involving organisations*, (London: Volunteering England, 2005).

Reynolds M, 'End of School Trips', *Daily Express* (October, 2004).

Risk Management Research Center, 'Liability Basics for Nonprofit Organizations', http://eriskcenter.org/ erisk.htm?pid=107, retrieved 06/10/05 (Arlington, RMRC, 1999a).

Risk Management Research Center, 'Myths about Nonprofit Liability and Risk Management', http://eriskcenter.org/erisk.htm?pid=106, retrieved 06/10/05 (Arlington, RMRC, 1999b).

RoSPA, 'RoSPA on course for Teacher Risk Assessment awareness', press release (Birmingham: RoSPA, 10 August, 2004).

Shifrin T, 'Volunteer bill "could be deterrent"', *The Guardian*/*Society*, http://society.guardian.co.uk/volunteering/story/0,,1163058,00.html, retrieved 20/09/05 (London, 5 March, 2004).

Third Sector, 'Risk Management: Occupational Hazards', *Third Sector* (27 July, 2005a).

Third Sector, 'Insurance: Driving a hard bargain', *Third Sector* (27 July, 2005b).

Third Sector, 'Opinion: Hot issue – are legal concerns affecting volunteer numbers?', *Third Sector* (17 August, 2005c).

Third Sector, 'UK charities "may have to follow US insurance lead"', *Third Sector* (16 February, 2005d).

Third Sector, 'Acevo urges Government to clarify volunteer role', *Third Sector* (02 March, 2005e).

Verity F, *Insurance and Risk Management: Unravelling Civil Society?* (Adelaide: Department of Social Administration and Social Work, Flinders University, 2005).

Volunteering Australia, *Running the Risk: a Risk Management Tool for Volunteer Involving Organisations,* information sheet (Volunteering Australia, 2003).

Volunteering Australia, 'Screening and the Volunteer Recruitment Process', information sheet (February, 2005).

Volunteering England, 'Volunteering England statement on the legal status of volunteers', www.volunteering.org.uk, retrieved 01/03/05 (2004a)

Volunteering England, 'Volunteering England response to Julian Brazier's Private Members Bill', www.volunteering.org.uk, retrieved 08/07/05 (2004b).

Z/Yen, *Risk Management Club for the VCS – Feasibility – Management Summary*, a report for Charity Logistics (London: Z/Yen, 2003).

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