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Requirements

Limiting Volunteers through Insurance Requirements

By [Susan J. Ellis](#)

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About a week ago I was contacted by long-time colleague Ed Madara from the American Self-Help Group Clearinghouse. He wanted to alert me to a trend threatening the continuation of his stakeholders:

*An increasing threat to the continuation and expansion of volunteer-run self-help support groups across the country is the demand for **insurance coverage** that churches, public libraries, and other community agencies are requiring of self-help groups. For decades, the groups thrived and helped millions of people. But the insurance demand is having its toll....*

[C]ommunity self-help groups have depended upon the free meeting space afforded them by houses of worship...and other public meeting places... The insurance companies appear to be leaning on some churches to reduce their provision of space, or to pay more...The requirement by some local government offices, demanding all independent community organizations get insurance before they can meet in their facilities, is downright unAmerican!

But it is not just the United States. A [July 21st article](#) in the *Daily Telegraph* gives examples of the obstacle course citizen volunteers face in the UK:

David Cameron wants to protect individuals keen to take part in his Big Society schemes from falling foul of over-rigorous health and safety officials.

Just this week, a group of residents in Dudley, in the West Midlands, were told that they could not mow local grass verges even though their council was no longer maintaining them in order to save costs.

And last year, a group of volunteer gardeners in Hackney, east London, was told by the local authority that they could not continue to plant trees and plants in local parks without a public liability certificate, which would have cost around £1,000.

The cumulative effect of many such small, seemingly-unconnected incidents is eroding our social fabric. Do we really want to allow concern for liability and insurance to take precedence over the willingness of citizens to engage in a volunteer activity that has benefits to the community?

Insurance Requirements Are Just More Risk Avoidance

A column I wrote in 1996 for *The NonProfit Times*, a bit controversially entitled “[Volunteering Is Inherently Risky](#),” remains relevant today. I still believe that there will always be risk in the work of greatest importance that volunteers do, particularly if they are acting on a problem that no one else yet sees or wants to tackle. (Just think about politically unpopular health-care projects such as needle exchanges for drug addicts or condom distribution for teenagers.)

Don’t get me wrong. All organizations, including self-help groups, have the obligation to consider the safety of participants, train people to be as competent as possible, provide appropriate work space and tools, and so on. (It is just as helpful to the homeless if blankets are distributed by two or three volunteers in a group for personal safety as if by only one volunteer in jeopardy on the street.)

But to me, the real question is: “What is the risk of *not* doing something?”

- Does the small chance of something going wrong mean a faith community ought to withdraw its long-time support of recovering alcoholics or any other self-help group?
- Should vacant lots in urban areas remain garbage dumps because community groups, willing to plant vegetable gardens or create playing fields, can’t get or afford liability insurance?
- Is it reasonable to deprive patients or residents in a care center from a beauty appointment, if licensed hairdressers volunteer to style hair but someone fears a lawsuit?

It sounds reasonable to require insurance, but it is becoming just another way of saying “no” to volunteer initiative. In the name of safety and good management, agency leaders and public officials can turn down an idea without seriously examining its merits and even its likelihood of accidents or lawsuits.

The example of churches citing insurance requirements to stop self-help group meetings makes me wonder whether the 500 congregations who provided refuge to Central Americans during the successful [Sanctuary Movement of the 1980s](#) worried about their insurance coverage. Maybe they did, but they chose to act anyway.

Someone needs to ask: *What will remain undone or unchallenged because of the fear of risk? What are the consequences of preventing citizens from doing what they genuinely want to do to improve their communities?*

Perhaps – ethically and morally – it is leaders of volunteers who must pose these hard questions. We need to show that risk management does not mean risk *avoidance*. We need to challenge rules that are based on fear of worst-case scenarios by emphasizing the good that can come from allowing

volunteers to do what they do best: step forward to do what needs to be done, taking precautions to do so safely and well.

What is gained by accepting some risk is as great as what is lost by avoiding it.

The *Daily Telegraph* article, which was titled “[Big Society insurance policy to be launched](#),” went on to describe the creative response the new Cameron coalition government is considering to offer a government-backed, low-cost insurance plan for these types of citizen activities. That idea may have great potential. Are there other good ideas out there?

I have raised some philosophic questions here. What do you think? Have you ever been stopped from doing something with volunteers because of fear of liability or lack of insurance? How did you react? Is the UK's insurance plan on the right track? What else can we do to challenge blanket restrictions on what volunteers are willing and able to do?

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Submitted 20 September 2010, anonymously

Your article is very timely for me. I am on the board of a small non-profit organization that is volunteer based. We have a new president on the board who is bound and determined to protect the organization from liability which is fine up to a point.

Prior to his presidency our Outreach Committee designed some really nice shirts for volunteers to wear. The shirt has the organization logo, the word volunteer and then the words Ask me What I'm Doing. The point of the shirts is to invite the public to engage the volunteers in a dialogue while we are out doing what we do. A lawyer told our president that even with a waiver the shirts were a very risky idea and should not be worn by volunteers. Everyone on the Board except me agreed with our president.

I am very upset that our activities are now being micromanaged by lawyers and insurance companies. As you mention, the board fails to assess how likely it is that we will be sued for something a volunteer does or for something that happens to the volunteer (even though the volunteers will be signing a liability waiver.) I will be forwarding your website to the members of the board in hopes that some members will change their mind.

Submitted 9 August 2010 by Shari Allwood, Executive Director, SMART Recovery, Mentor, OH USA

I can certainly relate to this! About 18 months ago, enough of our volunteer meeting facilitators were being turned away from meeting space (due to liability issues) that the organization determined a need to invest in a liability policy. With our limited budget, this was painful. However, because it was

inhibiting the growth of new meetings, and reaching out to people in need, the investment was made. Thanks for bringing this important issue to light!

Submitted 6 August 2010 by Teri Foster, Manager of Business Functions, Family Services, Children's Memorial Hospital, Chicago, IL USA

Perhaps there is a new need emerging for a clearinghouse of insurance groups willing to provide low-cost policies to NPOs, as well as a cohort of lawyers willing to do pro-bono work to defend NPOs that are sued frivolously (if that ever happens in reality).

Anyone want to step up and start a new organization for that purpose?

Submitted 5 August 2010 by Patricia, British Columbia, CA

Our Church in Canada was asked to obtain applications and work references for volunteers. We already obtain police checks for most positions, as everyone gets involved with providing lunch for vulnerable people. Many volunteers are over 80 years old and have held the position for years, it's a small community, everyone knows these volunteers. We are looking for alternatives that better meet our needs. I agree with most of the concerns expressed.

Submitted 4 August 2010, Anonymously

Where do the policies currently stand regarding the Volunteer Act of 1997, Good Samaritan laws, volunteer insurance providers and insurance carriers offering nonprofit plans? These all have policies that are often vague, riddled with loop holes and, at worst, not widely understood or properly applied.

We're all aware of the potential liabilities and dozens of organizations struggle to pay for just general insurance coverage...How do we best welcome and engage volunteers when options for addressing real liability are still at the beginning stages?

Susan replies: *You are absolutely right about the vague and inconsistent approach of existing legislation and insurance plans. I'm not sure anyone is looking at the whole picture. I do not know "where things stand," but recommend checking with the [Nonprofit Risk Management Center](#), the [Volunteers Insurance Service](#), and your national and state legislators who can interpret laws.*

But the point of this Hot Topic is not to start with liability questions. The two responders before you show different approaches. Jenna seems to feel that because one incident occurred, it is reasonable to simply stop volunteer driving. To me, the incident described speaks to a lack of training of the volunteer and/or a lack of instructions to the client (e.g., you may not get into or out of the car without assistance). I don't see how the payroll status of the driver matters here. Maybe the driving service wasn't too important in the first place, but 'd like to know how these older clients are getting to appointments now that volunteers have been stopped. The second respondent sees the challenge of considering risk but not making decisions on nightmare scenarios. Some organizations assume that – by definition – volunteers will be more accident-

prone or do something to create a lawsuit. This is not based on any legal precedents. In fact, there are remarkably few lawsuits involving volunteers.

Submitted 4 August 2010, Anonymously

This article is certainly timely. My organization has been so risk adverse that it is almost impressive to see how imaginative we have been in dreaming up worst case scenarios. I am now actively challenging these beliefs and attempting to strike a balance between risk management and program effectiveness. From volunteer clothing to our actual programing - we will strive to ensure that we are as realistic as possible in our risk identification.

Submitted 2 August 2010 by Jenna Jones, CVA, Volunteer Coordinator at So Others Might Eat (SOME), Washington, DC US

Our Caregivers Volunteer Program that helps 45 homebound seniors has been impacted by the liability issue regarding transportation for medical appointments. We used to have volunteers drive people to appointments, but when a 94 year old lady slid out of the car and missed her wheelchair (unassisted) it essentially ended our use of volunteers for this much needed task. Continuing this "service" was just too big of a potential law suit to merit the risk.

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