

***CharityVillage.com Cover Story***  
**Insurance for the nonprofit sector:**  
**Is the glass half full or half empty?**  
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**By Louise Chatterton Luchuk**

Understanding the nonprofit insurance situation is a bit like trying to decide if the glass is half full or half empty. A February 2004 CharityVillage cover story documented the issues of rising premiums and coverage limitations for many nonprofit agencies. Almost two years have passed, and Connie Berry, liability issues policy analyst for the Voluntary Sector Forum, says that some organizations should be feeling a bit of relief.

However, that's partly because of the regular insurance market cycle. "My big warning," says Berry, "is that this is a crisis that has happened before and will happen again. Prices shoot up and coverage goes down at the same time because of the market. That's a fundamental basic." Last year, insurance companies reported record profits - for which they took some heat - but that marked the changing of the cycle, and with a softer market, the insurance companies should be hungry for customers and more willing to negotiate. "They still have fears about some kinds of nonprofit activities, but generally people should be able to bargain harder," comments Berry.

**If this is cyclical, will the nonprofit sector be in a better position to deal with the next hit?**

"I don't want to be negative," says Gael MacLeod, "but in my opinion, nothing fundamental has changed. The reality is the insurance industry is part of the marketplace that has specific ebbs and flows." MacLeod prepared *Approaches to the Insurance Dilemma: a first cut for the Voluntary Sector*, for the Muttart Foundation as her organizational consulting project for an MBA from Royal Roads University.

She maintains that while risk management is absolutely the right thing to do, it's not going to greatly affect premiums because premiums have a relationship to international capital markets. So, yes, if an organization has a good risk management plan, they will be able to get insurance and the pricing might be a little more favourable, but it's not going to make the kind of difference the sector is looking for. It's not going to change the fact that when capital markets get tight, organizations will once again have difficulty with premiums and coverage.

MacLeod notes that the ebbs and flows are getting more severe and cautions that if the sector cannot tolerate these kinds of swings, then the only way to cope is to create some sort of alternative to the marketplace. That is the crux of her report. She says that the way to remove the sector's vulnerability to these normal insurance cycles is a non-market solution. In other words, to create an insurance pool outside of the current commercial insurance system. Berry and

MacLeod have both studied a lot of the non-market solutions out there. There are some models already, but more research is needed to know if they would work in our regulatory environment and in a country the size of Canada.

### **Government negotiations**

Rather than focusing on the relationship between the voluntary sector and the insurance industry, several Ontario community support organizations are taking a different tack. They are banding together to put pressure on the provincial government to make legislative changes. Says Craig Nicholson, communications spokesperson for the Ontario Federation of Snowmobile Clubs (OFSC), "the broad picture is that any group or organization in Ontario that relies on volunteers to deliver its programs has a real serious liability issue in regard to the exposure those volunteers have under current Ontario law."

### **"Protect our Volunteers"**

Four years ago, the cost of liability insurance for the OFSC started to go through the roof, so they started looking at their operations. They realized that most of what they did is through the effort of volunteers. "That's one of the reasons that insurance companies said our premiums were going so high," explains Nicholson. "With so many volunteers our exposure was huge. We started to look around. Why is that? Why are volunteers so unprotected? We realized there wasn't any law in Ontario to shield a volunteer from unreasonable lawsuits when the volunteer hasn't been negligent or deliberately malicious - just out there doing the best they can."

The OFSC found a few jurisdictions, particularly in the United States, that have laws in place stating that volunteers cannot be sued unless they are negligent. In January 2005, OFSC initiated the "***Protect our Volunteers***" campaign to push for changes to the laws in Ontario. They invited organizations to check out the campaign web site ([www.protectourvolunteers.com](http://www.protectourvolunteers.com)) and join in. This fall, they have a renewed push to broaden the number and types of organizations endorsing the campaign.

Has the insurance situation stabilized? Yes, for some organizations it has. That may be because they've increased their deductible and, as a result, lowered their premium. It may be because of natural insurance cycles, or because organizations are educating themselves about options or banding together. It may be because the insurance industry, government, and nonprofits are working together on committees and task forces. Whether the glass is half full or half empty, this is still an important issue; the insurance crisis has hit before and it will hit again.

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