



FACING THE RISK



LOSS PREVENTION FOR CHURCHES AND CHRISTIAN CHARITABLE ORGANIZATIONS

Why reduce the risk?

Insurance coverage can provide effective protection for unforeseen losses and accidents which occur on your premises or as a result of your operations. However, it is equally important for your organization to reduce the risk of losses which are foreseeable and preventable!

It has become essential for churches and Christian charities to implement risk management practices and procedures in order to reduce property loss and avoid legal liability damages against the organization and its leaders.

Risk management can be defined as “those practices, procedures and policies utilized by individuals or organizations to reduce or eliminate the potential damages or liabilities which could be expected in the ordinary course of their activities and operations”. In plain language, risk management is about reducing pain... (i.e., injury, damages) and limiting anxiety (i.e., uncertainty).

Good risk management practices don't detract from Christian ministries; they help your organization and your leadership in promoting and advancing your ministries by:

- Preventing loss or damage to your property,
- Avoiding interruption to your ministries and operations,
- Better protecting the children, young people and adults in your care,
- Avoiding the unnecessary placement of volunteers and employees in adverse situations,
- Providing a positive testimony to your community by adhering to standards that are equal to, or exceed, society's requirements,
- Demonstrating that your leaders (i.e. board members and employees) have exhibited due diligence and care in accordance with their fiduciary duties and responsibilities on behalf of the organization, and
- Avoiding unnecessary litigation that can drain your organization's time and resources and draw the focus away from ministry.

We recommend that an individual or committee be appointed on behalf of your organization to review this checklist and to take appropriate action where required in order to eliminate or reduce the risk of potential claims.

This checklist has been compiled to assist in identifying and evaluating

INSIDE

Fire Prevention	2
Crime Prevention	3
Bodily Injury Prevention	4
Special Liability Exposures	
Childrens' Ministries	5
Counselling Services	5
Employees & Volunteers	6
Property Use Guidelines	6
Directors & Officers	7, 8

special risks faced by Christian churches and charitable organizations which should be addressed through proactive risk management by board members and staff.

By reducing the risk of loss and injury we can continue to offer comprehensive insurance coverage at competitive premium levels and we look forward to the opportunity of working with you to prevent loss or damage to your property and helping to ensure the safety of your members, employees, volunteers, participants and guests.

For further information, we have in depth articles available on the following subjects:

- Physical and Sexual Abuse
- Abuse Litigation Update
- Counselling Services
- Directors & Officers Liability
- Property Use Guidelines
- Liability Insurance Checklist
- Liability Shields
- Umbrella/Excess Liability

ROBERTSON  HALL
INSURANCE



FIRE PREVENTION



KITCHEN

- Dry chemical portable fire extinguisher is located near, but not directly above the stove.
- Stovetop is kept clean and no flammable items are stored near the cooking surface.
- Deep fat frying is protected by an automatic CO2 system.

HOUSEKEEPING

- Combustible materials are not allowed to accumulate, especially in high risk areas, such as kitchen, furnace, electrical and maintenance rooms.
- Adequate metal waste baskets are provided and garbage is disposed of frequently.
- Gasoline is stored outside the building, and oil based paints and flammable items (including candles, matches, varnishes and cleaning solvents) are kept in locked rooms and stored in vented metal cabinets.

SMOKING

- Eliminate smoking on the premises, or at the very least, restrict it to certain supervised areas in which adequate ashtrays are provided.

ELECTRICAL

- Electrical panels and wiring are professionally installed and thoroughly inspected by a qualified service contractor on an annual basis.
- Common hazards which can result in fire include overfusing, faulty electric ceiling fans, open receptacles and switch boxes, lack of ground fault interrupters, temporary

space heaters and permanent use of extension cords (which should be prohibited and immediately replaced by approved wiring).

- Use surge protectors to help prevent damage to sensitive computer, office and telephone equipment from electrical power surges and lightning strikes.

FURNACE ROOM

- Heating and air conditioning systems are inspected annually, including checks for faulty burners, motors, safety devices, dirty and cracked flues and inadequate clearance from combustible material.
- Unprotected walls and ceilings should be closed in with approved fire-rated materials.
- Inspection certificates, operating instructions and safety or emergency procedures are clearly posted in furnace room.

FIRE EXTINGUISHERS

- Installation of multi-purpose fire extinguishers located throughout the building. They should be conspicuous, easily accessible and located within 75 feet from any point on any floor. Check with your local fire department for further advice.
- All extinguishers are serviced annually to ensure that they are properly charged and should be tagged with the last date of service.
- Key personnel should be trained in the use of fire extinguishers and any other equipment available (such as CO2 fire suppression or sprinkler systems) by experts from your local fire department or fire equipment service contractor.

FIRE ALARMS

- Consideration should be given to installing an automatic fire detection system to prevent small fires from becoming major ones.
- Fire alarm systems, automatic sprinkler systems and standpipes and hoses should be inspected and tested periodically to ensure proper operation.

IN CASE OF FIRE

- Call "911" or the nearest fire department immediately in order to prevent smaller fires from getting out of control.
- Evacuate the premises, ensuring that all occupants have exited the building to the nearest emergency exit.
- Fight the fire with available extinguishers and equipment and remove valuables and records from the building, but only if safe to do so.

GENERAL

- Conduct a periodic review of your building replacement value by checking with an experienced contractor or qualified real estate appraiser, in order to assist you in establishing adequate insurance coverage amounts and to avoid co-insurance penalties.
- Keep an inventory of your contents and/or a video record, remembering to store your video cassette off-site.
- These records will help you and your insurance adjuster establish the extent of your loss more accurately and speed up your claim settlement.
- Exits and exit routes should be clearly indicated and periodic fire drills conducted, especially for premises used for Sunday school, children's ministries, day cares and day schools.
- Emergency lighting and exit signs should be periodically tested and maintained in good working condition, remembering to replace burnt-out bulbs.
- Keep interior fire doors closed to prevent fire or smoke from unnecessarily spreading to other sections of the building.
- Extra care should be taken when construction or renovation projects are taking place on your premises as many fires are due to work performed by unqualified volunteers or subtrades.

LEADING CAUSES OF CHURCH FIRES

Heating Equipment (defective or improperly installed and maintained)	28.5%
Electrical Faults	20.3%
Arson or Suspected Arson . . .	16.8%
Smoking, Matches, Candles . .	11.4%
Spontaneous Ignition	4.4%
Baptismal Tank Heaters	1.2%
Miscellaneous Causes	16.4%



CRIME PREVENTION



THE FACTS

A break-in occurs every three minutes in Canada (according to the C.M.H.C.). Property crime accounts for over 60% of all Criminal Code offences since 1992 and the incidence of theft and vandalism suffered by churches and charitable organizations has doubled during the past ten years. Theft is a crime of opportunity and there are many ways to make your premises a less attractive target.

SECURITY SYSTEMS

- We strongly urge the installation of a centrally-monitored security system as the best available deterrent to break-ins and vandalism. An effective system includes a combination of motion sensors, door contacts, strategic window contacts, dedicated secure phone lines and ULC-approved equipment components.



Studies indicate that properties with a security system are 15 times less likely to be broken into than those that are not protected. Not only is the presence of a security system a strong deterrent, it can vastly shorten the time available for thieves to locate valuables in your premises and can also serve to prevent the possibility of arson to cover up the break-in. Also please keep in mind that premium discounts are available with the installation of a centrally monitored security system.



- As an alternative to monitoring, a security system consisting of strategically located perimeter protection, motion detectors, an external siren and an automatic telephone dialing system to alert key personnel, should be considered as a minimum step.

LIGHTING

- Installation of permanent flood lighting and motion sensor lights over building entrances in dark or hidden areas is essential to discourage break-in attempts and for the personal safety of employees and members.

PHYSICAL BARRIERS

- Installation of security bars, screened or shatter proof glass (e.g. Lexan) to prevent easy access through window openings on ground and basement levels.

TARGET EQUIPMENT

- Target items such as sound equipment, video equipment, musical instruments and office equipment should be kept in secured locations, such as locked storage cabinets, sound rooms, alarmed areas, etc., when not in use.
- Utilize the following tools for easier identification and recovery of your equipment in the event of a claim:
 - Itemized inventory of contents
 - Video cassette tape record of all contents
 - Engraving target contents with equipment available from your local police department e.g. "Operation Provident"

OFF-PREMISES EQUIPMENT

- Equipment taken off-premises to other locations for special events, services, fundraisers, exhibitions, conventions, presentations etc. should always be secured when not in the custody of your personnel.
- Since most insurance policies contain a warranty that property stolen from unattended vehicles is only covered if the vehicle is locked, please remind your employees, members and volunteers to lock parked vehicles and to keep target theft items such as laptop computers, musical instruments, sound equipment etc. out of view, either in the trunk or under the seat.

OUTSIDE EQUIPMENT

- Lawn and maintenance equipment such as riding tractors are easy targets for thieves. If you own such equipment, please keep off-premises or store in a secure shed or outbuilding and chain to the building structure or to a metal loop embedded in the concrete floor pad.

OFFERINGS AND DONATIONS

- Offerings and donations should be counted and recorded under supervision by authorized personnel as soon as received and deposited promptly.
- All cheques should be marked "For Deposit Only".

- Bank deposits should be made immediately following services and your deposit schedule should be varied in order to reduce the possibility of a holdup and possible injury to your employees, members or volunteers.
- If money cannot be deposited immediately during regular banking hours, ensure that it is placed in a bank night depository or secured on premises in a safe with a rating of class II, or better.

MISCELLANEOUS

- All exterior doors should be locked when not in use and monitored while services or activities are in progress.
- Conduct periodic and closing time "walk through" inspections to ensure that all visitors have vacated the building, all exterior doors and windows are tightly closed and the security system has been activated.
- Limit the number of sets of keys in circulation to a few key employees, volunteers or board members (6 sets or less). If keys are temporarily required by other responsible and qualified individuals, they should be required to "sign out" and return them promptly.
- Notify members and neighbours in the immediate area to report suspicious activities to the police.
- Advise church members and staff that there is no theft coverage for personal items left temporarily on the church premises (e.g., coats, purses, hats and other personal items.) Owners of these items generally have coverage available through their own homeowners or tenants policies.
- If you do suffer a break-in resulting in the theft of your property, refrain from replacing the stolen items until you have taken effective measures to prevent similar future losses, as police enforcement statistics indicate an extremely high percentage of repeat break-ins within weeks or months of the first successful theft.



BODILY INJURY PREVENTION



BACKGROUND

It is important to remove physical hazards on the interior and exterior of your premises which may unduly increase the risk of injury to your employees, members or visitors. Periodic risk audits should be conducted to review hazardous activities, programs or physical risks which may need to be modified or eliminated.

SIDEWALKS & PARKING AREAS

- All sidewalks and parking areas should be cleared of ice and snow in advance of use by employees, members and visitors. Keep a snow removal log or record.
- Broken concrete steps and sidewalks should be repaired or replaced.
- Unusual obstructions to pedestrian and vehicle traffic should either be removed or clearly marked.
- Adequate lighting is provided above all exterior entrances and parking areas to illuminate and ensure personal safety.
- Features on your property which present “inherent dangers” (e.g., deep water) or “attractive nuisances” (e.g., playground equipment) should be addressed by providing written warnings, barriers and supervision as required, especially where children are involved.
- Gas meters and gas pipelines on building exterior should be protected from vehicle impact by use of concrete piers or a metal cage.

EXITS

- All exit doors are free of obstructions and easily accessible.
- All exit doors are designed to open outwards and are provided with anti-panic hardware.
- Exits and exit signs are clearly visible and emergency lighting in good operating condition, including replacement of burnt-out bulbs.
- Full length glass doors and windows are clearly marked to avoid walking into them.

HALLS & STAIRWAYS

- “Slip and fall” injuries can be avoided by extra care and attention to faulty or slippery stairs, worn carpeting,

loose runners or riser strips, inadequate hallway or stairwell lighting, etc.

- Stairs are covered with anti-slip surfaces, risers are regulation height and depth and edges are clearly marked.
- All steps and ramps are provided with securely fastened handrails.

VEHICLES

- All vehicles are inspected and maintained according to a regular schedule, especially multi-passenger vans and buses.
- Buses or vans should not be loaned to other organizations or individuals unless you are supplying one of your own qualified and approved drivers. Do not rent or lease your vehicles to other parties for monetary consideration as coverage may be excluded under the statutory conditions of your policy.
- Only experienced drivers who practice safe driving habits should have the responsibility of operating vans or buses on behalf of churches and charitable organizations. We recommend only drivers of at least 25 years of age with a minimum of 5 years driving experience. Your insurance company can help to screen and review the motor vehicle records of potential drivers on your behalf in order to confirm their suitability.
- When selecting drivers for buses with a seating capacity of 24 passengers or more, select drivers that have at least 2 years experience driving a similar size vehicle.
- All drivers are properly licensed in order to meet applicable provincial guidelines for multi-passenger vehicles, as improper licensing can limit or jeopardize your insurance coverage. Please refer to your local motor vehicle office for licensing guidelines.
- Discourage the use of non-owned or privately owned vehicles for transportation of other members and participants in sponsored activities, unless the driver is mature, experienced and maintains an acceptable driving record. In particular, we recommend against younger inexperienced drivers being authorized to drive other young people on behalf of your church or charitable organization.

MISCELLANEOUS

- The use of gymnasium facilities should be strictly regulated and supervised. Floors should be non-skid surfaces, walls should be properly padded and sports equipment should be safe and well maintained.
- Although General Liability policies provide coverage for your organization and its leaders in the event of bodily injury due to negligence, many accidents are not due to negligence and your organization may feel a moral responsibility which exceeds your legal obligation for injuries suffered by your members, volunteers and visitors. Optional “no-fault” accident benefits coverage is available to supplement your general liability coverage, including Accidental Death and Injury, Supplementary Medical Expense, Dental Expense, and Loss of Income Benefits.

This type of coverage is especially important for churches and charitable organizations that operate sports teams, schools, day cares and camps. This coverage is also ideal for organizations involved in construction or renovation projects utilizing volunteers who are not eligible for workers compensation benefits.

- If your organization sponsors short-term out-of-country mission projects or work projects, participants should be required to obtain extended medical coverage in order to supplement lost or reduced provincial hospitalization coverage, including emergency medical and dental treatment, prescription drugs, return transportation including air ambulance, and repatriation.
- Avoid sponsorship of hazardous recreational or sports activities which place participants at undue risk and for which you may not be able to provide effective and professional supervision and training. Examples include such activities as rock climbing, white water rafting or canoeing, waterskiing, parasailing, skateboard ramps and jumps, trampolines, horseback riding, riflery, archery, etc.



SPECIAL LIABILITY EXPOSURES



CHILDREN'S MINISTRIES



Sunday school, nursery and children's activities present a significant liability exposure to churches and Christian charities. Your organization has a fiduciary duty of care to ensure a safe environment for children, who are the most vulnerable in society. The duty requires your effort to prevent, detect and report potential abuse and it is considered by law to be at least equivalent to a parent's duty of care. Therefore, it is extremely important to develop and implement written policy guidelines to address children's ministries including:



- Open door policy for Sunday School classrooms.
- Discourage situations in which one adult volunteer worker or employee is left alone with children for prolonged periods.
- Train volunteers working with children to identify signs of child abuse or child abusers.
- Identify permissible and unacceptable touching and disciplining of children.
- Maintain reasonable staff or volunteer/child ratios at all times.
- Document receiving and releasing of children.
- Record the names and contacts for all children participating in programs, including any special needs or requirements.
- Permission from parents when snacks are required.
- Permission and signed "Release" forms from parents and guardians for off-premises activities or field trips.
- Review of furnishings, recreational equipment and toys used in children's ministries in order to ensure that they are in good condition and meet current safety standards (e.g., proper railing width for infant cribs).
- Sanitation schedule for change tables, bathrooms, cribs, toys etc.
- Refusal of sick and/or contagious children.
- Immediate parental notification in cases of injury or sickness.

- Safety procedures and emergency telephone numbers posted in highly visible areas in the event of fire, injury or other emergency.
- Develop a good relationship with the local Children's Aid Society and be familiar with the Child and Family Services Act.
- Distribution and periodic review of child care guidelines with all employees and volunteers.
- Because the statute of limitations for legal action can be suspended in cases of actual or alleged abuse involving minors, records of liability insurance policies should be kept in storage indefinitely, including copies of policy documents, renewals and/or a registry of the name of the insurance company and broker, policy number, policy period, summary of coverages and limits insured for each policy term.
- Upon receiving a report or allegation of physical or sexual abuse:

DO:

- ✓ Act promptly, thoroughly and with sensitivity to all parties involved,
- ✓ Immediately notify the proper authorities in cases of suspected abuse, including police department and/or local Children's Aid Society,
- ✓ Suspend alleged abuser from staff or volunteer duties, with pay if appropriate, until the charges are investigated, and
- ✓ Report the incident to your insurance company/broker in order to meet the statutory conditions of your policy and to allow the insurer to assist in mitigating further negligence or legal liability.

DON'T:

- ✗ Admit legal liability,
- ✗ "Sweep" the allegations under the carpet,
- ✗ Disclose the name of the "alleged" abuser or victim, or
- ✗ Make any statements to members, media or the general public, until you have consulted with your lawyer.

COUNSELLING SERVICES

- Limit the scope of counselling activities so as to recognize the professional limits of the counsellor's expertise and training, and the legal limits of religious therapy.
- Decline or refer counselling cases requiring specialized psychological or medical requirements to qualified health care professionals.
- Counsellors or therapists who are hired on a contract basis or who have private practices on your premises should provide proof of their own primary counselling liability insurance coverage.
- Adopt an "open door" and/or "team counselling" approach in order to discourage allegations of abuse or harassment.
- Make a continuing education requirement for ministers and counsellors and keep current on legal issues and legislation affecting your counselling ministry.
- Allow sufficient time off for counsellors to "regroup" to prevent burn out, abuses or excesses.
- Establish a degree of accountability between staff or volunteer counsellors and your board members.
- Maintain confidential notes and records of counselling sessions, including dates, times, topics discussed, comments and recommendations.
- Refrain from the use of terms such as "professional counselling" or "counselling services" in your advertising or ministry descriptions, unless your counsellors hold recognized degrees and are active members of self-regulating professional associations to whom they are accountable and are subject to discipline. Instead, use such terms as pastoral care, support, insight, shepherding, spiritual guidance, etc.
- Have those individuals seeking counselling or guidance sign a written agreement in advance which includes an acknowledgement of the scope and limitations of the services offered and a release of legal liability against the organization and its directors, employees, members and volunteers.

EMPLOYEES & VOLUNTEERS



SPECIAL LIABILITY EXPOSURES



- Establish clear written policies and procedures for the hiring, supervision and termination of employees as follows:
 - Employment application process should include requests for references, personal interviews and criminal record checks.
 - Employment contracts should clearly outline “lifestyle” statements and expectations for ministers and other employees, in accordance with the organization’s beliefs and standards.
 - Employment contracts and the organization’s constitution/by-laws should clearly define that any inappropriate/immoral conduct including sexual abuse or harassment will be the subject of disciplinary action.
- Establish clear written policies and procedures for the appointment and supervision of volunteers working with children and teenagers (e.g. Sunday school teachers, nursery workers, youth counsellors, etc.), including:
 - A screening application or questionnaire requesting applicant’s past experience, references and existence of any prior criminal record.
 - Impose a minimum waiting period on new members and adherents before they are eligible to serve in children’s ministries.
 - Develop a procedure manual for children’s workers and keep all applications and questionnaires on file for future reference, in order to document the organization’s efforts and to discourage frivolous claims.
- Familiarity with Employment Standards Acts and Human Rights Codes in order to avoid potential

wrongful dismissal, employment practices or discriminatory actions.

- Compliance with statutory employer obligations, including Pay Equity, Employment Equity, Occupational Health and Safety and other applicable legal requirements.

PROPERTY USE GUIDELINES FOR OUTSIDE GROUPS AND ORGANIZATIONS

- Develop clear property use guidelines for the use of your facilities by outside parties and discourage occupancy by individuals, groups or organizations engaged in “high risk” activities. This will strengthen your ability to respond to property use requests without appearing to be arbitrary or inconsistent.
- Independent contractors performing construction or maintenance on your premises should also be required to provide verification of liability insurance for injuries or damages suffered as a result of their actions. Avoid using lawn maintenance services, snow removal services, painters, roofers, plumbers, electricians, heating contractors, etc., who are uninsured.
- Differentiate between proposed occupancies and activities which are under the authority and umbrella of your recognized ministries and operations, and those which are not.
- For any proposed use of your facilities by individuals, groups and organizations which are not under your control, there should be a mandatory tenancy or rental agreement which spells out the following requirements on the part of the tenant in order to transfer the risk:
 - (i) A waiver of legal liability against your organization for any bodily injury or property damage arising out of the tenant’s or occupant’s operations and activities.
 - (ii) An undertaking to indemnify your organization against any legal liability due to the tenant’s or occupant’s operations and activities.
 - (iii) An agreement to furnish your organi-

church protection

plus

Available to:

- Churches
- Christian Campgrounds
- Mission Outreaches
- Evangelistic Ministries
- Bible Colleges
- Schools & Day Cares
- Relief Organizations

PLUS, many other Christian Charities

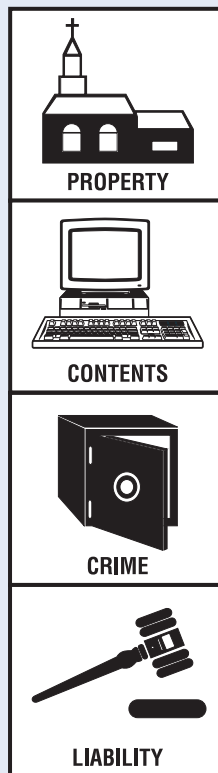
In addition to standard insurance coverages, our “Church Protection Plus” Plan offers “hard to get” liability protection, including:

- ✓ Broad Form General Liability
- ✓ Blanket Counselling / Mental Anguish
- ✓ Vicarious Liability for Abuse and Harassment
- ✓ Non-Profit Directors and Officers Liability

If you are not presently insured by our office, we invite you to join over 2,200 Christian charitable organizations who already benefit from the professional advice, premium savings and unique coverages available through our program. For more information or a no obligation comparison quotation, please contact:

ROBERTSON HALL
INSURANCE

Toll Free: **1-800-640-0933**
E-mail: insurance@robertsonhall.com





SPECIAL LIABILITY EXPOSURES



zation with a Certificate of Liability Insurance confirming the tenant's or occupant's primary General Liability and Tenant's Legal Liability coverage, and the inclusion of your organization as an additional insured with respect to the proposed occupancy.

DIRECTORS & OFFICERS LOSS PREVENTION CHECKLIST FOR CHURCH AND CHARITABLE ORGANIZATION BOARD MEMBERS

The potential liability of board members of a church of charitable organization, for their actions and decisions as directors and officers, is a personal liability! It is important for board members to understand and review their legal responsibilities in order to avoid personal liability resulting from actual or alleged errors, omissions, negligent acts, misstatements, breach of duty or neglect of duty, including the following areas of responsibility:

- Awareness of the wide variety of statutory legal obligations to which the directors and officers of non-profit organizations may be subject, including but not limited to the following:
 - Charities Accounting Act
 - Charitable Gift Act
 - Corporations/Societies Act (Provincial)
 - Canada Corporations Act
 - Trustee Act
 - Religious Organizations Land Act
 - Income Tax Act (Federal and Provincial)
 - Unemployment Insurance Act
 - Canadian Environmental Protection Act
 - Occupational Health and Safety Act
 - Employer Health Tax Act
 - Employment Standards Act
 - Pension Benefits Act
 - Employment Equity Act
- Sensitive issues being addressed by your board should be kept strictly confidential, unless otherwise agreed by all parties involved, in order to avoid a breach of

confidence or to avoid libel, slander and defamation damages.

- Understanding of "fiduciary duties" by all board members, including:
 - (1) **Duty of Diligence** - Using reasonable care in making informed decisions (including input from outside professionals and experts) and performing duties in the best interests of the organization.
 - (2) **Duty of Loyalty** - Avoidance of personal activities and personal transactions with, or on behalf of the organization, which might result in personal gain, i.e. potential conflicts of interest.
 - (3) **Duty of Obedience** - Responsibility to perform duties within the statutes and terms of the organization's charter, by-laws, constitution, statement of faith, etc., and to avoid actions which are contrary to or beyond the scope of regulations governing the organization.
 - (4) **Duty of Honesty** - Acting with honesty and in good faith, including full disclosure of information that may affect the deliberations and decisions of the board.
 - (5) **Duty of Skill** - Expectation that board members must exercise skills in accordance with their education, experience and professional abilities.
 - (6) **Duty of Prudence** - Requirement that board members use common sense and to act cautiously in trying to foresee the likely consequences of a proposed decision or course of action.
- Importance of maintaining responsible governance procedures for the operation of the board, including:
 - Regular frequency of meetings
 - Regular attendance at meetings
 - Majority quorum in order to conduct votes
 - Avoidance of over dependency on small executive committees
 - Distribution of agenda and minutes of prior board meetings well in advance of upcoming meetings, in order to allow for adequate preparation
 - Procedures for keeping members in

formed of new developments and operations between meetings

- Proper research in the decision-making process
- Use of outside professional advice for legal and financial matters
- Remember that once directors and officers are elected or appointed, they are exclusively responsible to the organization, its objects or purposes, and its governance documents. Board members are intended to be a deliberative and independent body when vested with power and authority by the organizational body or membership. They are not intended to represent or to be under the influence of their constituent membership or any segment thereof, as decisions based on this influence may actually result in a breach of their fiduciary duties.
- Implement effective legal risk management practices and procedures in order to prevent unnecessary liability exposure, legal actions, legal fees and membership splits. These practices and procedures should include identifying, understanding, maintaining, and updating all of your organizational documents, including your constitution, minutes of meetings, board resolutions, membership covenants, employment contracts, statement of faith, leases, deeds, mortgages, insurance policies and any other applicable documents.

In the case of incorporated charities, these documents should also include letters patent, corporate bylaws, resolutions, directors, officers and members register, register of debts and government filings. Documents should be maintained and updated in a binder for each board member and copies of the binder should be distributed to new board members.

- Detailed records of board meetings should be kept, including documentation of board decisions. Minutes of the previous meeting and an upcoming agenda should be circulated to all board members in advance of the next meeting.
- Most Christian charities should

develop, adopt and implement policy statements regarding personnel, child abuse prevention, sexual harassment prevention, lifestyle expectations, divorce and remarriage and homosexuality, as required. Examples of such statements are now readily available from denominational authorities or other organizations and their adoption and implementation demonstrates due diligence on the part of your board members.

- Institute alternative or appropriate dispute resolution (i.e. “A.D.R.”) guidelines in order to allow for the resolution of internal conflict by the use of an independent and impartial third party authority utilizing Christian-based principles. This process should call for mediation and if necessary, arbitration, rather than risking prolonged confrontation, potential civil damages and unnecessary harm to the organization’s reputation and ministry.
- Consult legal counsel prior to making public statements regarding termination or disciplinary actions involving employees, members and volunteers, in order to avoid potential libel, slander or wrongful dismissal actions.
- Desirability of a balanced composition of board members, including individuals with a wide variety of ministry, occupational, professional and business experience.
- Consideration should be given to church incorporation in order to avoid potential personal liability against church members.
- Update the organization’s constitution and bylaws to include a “statement of faith”, a membership covenant, an outline of lifestyle

expectations for members and employees, written procedures for biblical discipline and policy statements which address any other potentially litigious issues e.g. divorce and remarriage, homosexuality, ordination qualifications, etc.

- Familiarity with the “prudent investor” and “arms length” provisions contained in provincial Trustee Acts.
- Structure the church constitution to allow ministers to have input on the church board, without violating fiduciary duties under the Trustee Act. Potential breaches of these duties for ministers serving as board members arise out of the difficulty of satisfying the Duty of Loyalty and serving as a “paid” director, and the challenge of fulfilling the Duty of Honesty while maintaining “client confidentiality”.
- Church discipline issues should be addressed within a framework of “due process” and fairness for individuals, including the right to an unbiased tribunal, the right to know allegations, and the right to an advocate. Failure to follow the principles of natural justice or to comply with your organization’s own discipline process can result in civil legal liability damages against your organization and/or your directors and officers.
- Include an indemnification provision in the organization’s by-laws in order to reimburse board members for personal legal liability damages arising out of their responsibilities, actions and decisions.
- Arrange Directors and Officers Liability coverage to provide protection for the personal liability of

board members arising out of their wrongful acts, including a provision for reimbursement of the organization in the event that an indemnification clause is contained in the organization’s by-laws or constitution.

- Make sure that designated or restricted funds from donors or members are kept segregated from operating funds and are not spent, borrowed against or invested in contravention of terms of trust or the Trustee Act.
- Avoid issuance of charitable receipts for amounts which include payment for direct or indirect goods and services for the benefit of the donor, as this could result in the revocation of your registration number.
- Charitable Organizations raising donations in Canada for transfer outside the country must be in compliance with Section 149.1 of the Income Tax Act. The transfer must be made only to a “qualified donee” and the Canadian organization must maintain control of international disbursement of funds by means of employees in the field or through principal agency agreements or joint ministry agreements with other charities.
- Under the Environmental Protection Act, the directors and officers of church organizations could be held liable for the discharge of contaminants into the environment, including fines, cleanup costs and punitive damages. Old or discarded underground oil storage tanks should be removed from the property and the spraying of insecticides by unqualified individuals should be discouraged.

ROBERTSON HALL INSURANCE

431 Richmond Street, Suite 300, London, ON N6A 6E2
Tel: 519-680-3111 • Toll Free: 1-800-640-0933 • Fax: 519-685-2931
email: insurance@robertsonhall.com
www.robertsonhall.com