

### **RISK MANAGEMENT AND AGREEMENTS FOR SERVICE-LEARNING**



#### **OUTCOMES**

By the end of this chapter you should be able to:

- Identify possible risks immanent in service-learning modules, and plan for them.
- Develop a risk management policy/ guidelines.
- Effectively manage incidents of risk when they do occur.
- Identify insurance provision.
- Complete the template for the design of a module integrating service-learning in the curriculum. Use Appendix A: SECTION B: *Phase 2: Module Implementation*: 4 and 5. You may also find it useful to draw on the content of Chapters 3, 4, 5, 7, 8 and 9 to complete the template.

#### **6.1 INTRODUCTION**

Academic staff should be aware of the potential risks (e.g. unusual physical demands, health risks, random acts of violence in communities etc.) of a proposed service-learning module and disclose this in the module study guide. Students must know how to perform their service-learning professional tasks safely – both for the clients and for themselves. Risk management forms part of good practice in service-learning, as it creates an awareness of and commitment to providing quality service. If staff members are concerned about students' safety in a module, they should discuss these concerns with the institution's legal advisor. Risk management, in essence, should be the responsibility of all partners; and while there are indeed risks, these are outweighed by the advantages of engaging in service-learning.

#### **6.2 DEFINITION OF TERMS**

To understand risk management, it is necessary to become familiar with the following basic terminology:

- Risks and risk management;
- Liability and liability prevention;
- Agreement and contracting; and
- Insurance.

**Risk management** is formally defined as the process whereby an organisation (HEI) establishes its risk management goals and objectives, identifies and analyses its risks, and selects and implements measures to address its risks in an organised fashion (Young and Tomski, 2002). The

goal of risk management is to improve performance by acknowledging and controlling risk, which improves the HEI's ability to avoid unpleasant surprises that can occur in a service-learning programme or project. This helps the organisation (HEI) to take control of the risks that cannot be avoided (Tremper and Kostin, 1997).

**Risks** can be categorised into different types and levels (people, property, income and goodwill). The simplest definition though is “the possibility of loss, injury, disadvantage or destruction” (Simmons, 2003).

**Liability** is having legal responsibility for something or someone. In law, liability is a broad term including almost every type of duty, obligation, debt, responsibility, or hazard arising by way of contract, tort, or statute. Liability is dictated by four points of law: duty to care, negligence, breach of duty, and standard of care.

**Liability prevention** involves the systematic identification, analysis, measurement and reduction of risks. It encompasses both service-learning products (e.g. poster, pamphlet, diet plan) and experiences and includes too the service or community agency. Liability could pertain, for example, to incidents such as slipping on a wet stairway or being involved in a motor vehicle accident, and in workers' compensation cases, among others.

**Agreement** and **contracting** refer to an arrangement made between two or more parties whereby they signify their assent, whether in writing or otherwise, to a course of action, or to a distinct intention, that affects the parties (Encyclopedia of Real Estate Terms, © 2000-2004).

**Insurance** involves a contractual agreement that calls for one party, in exchange for a consideration, to reimburse another party for certain specified losses. The insurance contract is called a policy. The consideration is called a premium. ([www.insuritinc.com/pages/glossary.htm](http://www.insuritinc.com/pages/glossary.htm))

### 6.3 SOUTH AFRICAN LEGISLATION

Risk management should be considered a vital component of the service-learning partnership, and the joint responsibility of all the partners.

While various laws govern the relationship between the employer and the employee (see Appendix **T** for an outline of the laws that should be considered when embarking on writing a risk management policy), it should be noted that none of these laws considers the rights of students at various sites of learning in their capacity as volunteers (in the workplace), hence the concern for the safety of students during service placements. Service sites could include, for example, primary healthcare facilities, hospitals, businesses etc. Given the absence of legislation protecting students in the workplace, the role of the HEIs, service providers and the community would be to put protocols and guidelines in place to reduce the risk to students at sites of service-learning.

## **6.4 POSSIBLE RISKS FOR THE DIFFERENT PARTNERS**

Service-learning presents a range of risks, which vary according to the partners involved and their particular roles.

### **6.4.1. Students**

There are various risks for students engaged in service-learning. A primary one is students' safety as they are transported to and from the institution to their service-learning sites. If students use public transport, they might be hijacked, assaulted or robbed. At the service sites too there are risks associated with the student's particular professional activities; for example, students placed at primary healthcare settings or hospitals may be exposed to the risk of needle-stick injuries, and so on.

### **6.4.2 Academic staff**

The risks for academic staff include the fact that students' whereabouts need to be known at all times and staff are required to meet the module learning outcomes. In addition, academic staff need to take into account their own safety during site visits and supervision.

### **6.4.3 HEI**

The institution has risks such as liability issues (in the event of student injuries during service-learning experiences). In some cases of unusual risk, the HEI may decide that students should be required to sign indemnity or release forms. The institution's Legal Affairs Office may provide examples of indemnity forms to departments and assist in the drafting of indemnity forms for specific activities.

### **6.4.4. Community and service agencies**

The community and service agencies also face liability issues if students should be injured at the service-learning site. When meeting with community and service partners to plan service and curriculum, it is also necessary to discuss risk management issues; this would be an integral aspect of negotiating the service-learning placement.

## **6.5 RESPONSIBILITY AND LIABILITY OF THE DIFFERENT PARTNERS**

There are various codes of ethics that govern the behaviour of professionals (see an example in Appendix H). When providing a service there is a duty to care; that is, in doing good it is necessary to do so responsibly. Liability issues are always very fact-specific and depend on the circumstances surrounding a particular claim; thus cases of liability need to be well documented under the following headings:

- Negligence – the evidence of recklessness and/or indifference in performing duties;
- Breach of Duty – occurs when problems could have been avoided (in other words, the problems could have been foreseen);

- Standard of Care – refers to the quality of care provided (what is expected from a professional in a specific situation).

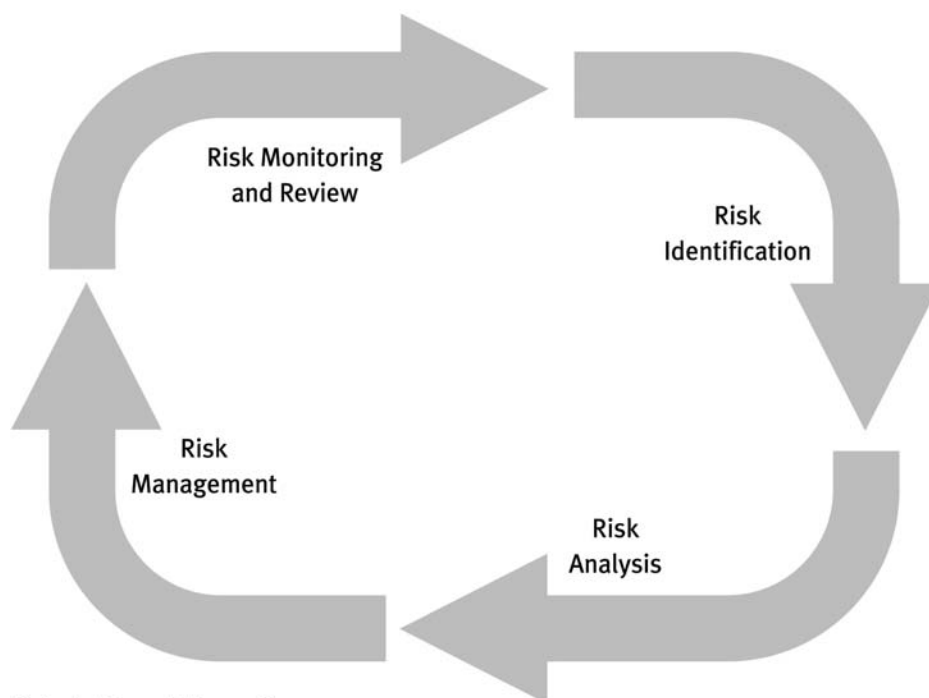
Staff members who organise a service-learning programme, students who participate in such programmes and community and service agencies that provide placement and supervision of students, and in most cases sponsoring HEIs too, are all exposed to potential liability.

## 6.6 FOUR STEPS OF RISK MANAGEMENT

The development of a risk management plan is necessary to ensure the commitment, involvement and protection of triad partners, and to provide a safe environment for students and staff involved in the service-learning programme.

HEIs need to develop risk management policies, which address the risk management goals, the measures to be taken with regard to training, insurance, contractual agreements etc. and policy implementation. (See Appendix **B** for an example of a service-learning agreement among various partners.) HEIs should therefore ensure that there are sufficient resources to provide the infrastructure required for the development of risk management policies as this also forms part of the management of quality. Once the risk management policy is in place, a specific plan with the following steps should be operationalised (see figure 6.1, below):

**Figure 6.1: Risk Management Cycle**



### **6.6.1 Risk identification**

Identifying particular risks that could be encountered during service-learning enables partners to consider various means to address these and highlight inherent dangers and risks to all involved. Partners are made aware of the capabilities of students and help ensure that the students do not act outside the scope of the level of their professional ability (Reams, 2003). This also determines the quality of duty and performance required from students, as the service-learning placement is recognised as a serious academic and professional learning activity.

### **6.6.2 Risk analysis and evaluation**

This entails measuring the risk in terms of hazards and conditions of service site, cost of replacement of assets, legal fees, and so on.

### **6.6.3 Risk management**

Select and implement methods of prevention (including training, supervision, policy, and indemnity forms); again, see the example of a service-learning agreement in Appendix B. Keep a record of claims and losses. The following are key aspects of risk management:

- Risk avoidance: This involves deciding not to do the project, or the part of the project that entails the risk.
- Risk containment: Containment involves setting aside sufficient time and money to pay for dealing with the risk, should it materialise.
- Risk reduction and risk prevention: These involve obtaining additional information that will reduce risk (e.g. prototyping, incremental development), or developing options to reduce the potential of the problem occurring.
- Risk mitigation: This entails taking steps before a risk materialises to reduce eventual containment costs.

### **6.6.4 Risk monitoring and review**

Monitor the risk management programme and make changes as needed (continuous analysis of the plan). When participants are aware of a risk management plan, it improves morale and productivity, and increases awareness, which could deter or decrease potential risk.

## 6.7 COMPONENTS OF A RISK MANAGEMENT PROGRAMME FOR SERVICE-LEARNING

The following policies, procedures and processes should be in place for risk management of a service-learning programme:

- Site visit;
- Supervision;
- Orientation;
- Indemnity, consent forms and permission slips;
- Communication;
- Transportation;
- Loss reporting file; and
- Insurance.

(Mihalynuk and Seifer, 2003)

### 6.7.1 *Site visit*

A site visit should be arranged prior to the commencement of the student placement in the community, in order to plan for the students' activities and explore and discuss potential risks. This implies that, in addition to planning students' service-learning, academics, students and community and service agencies discuss the following questions:

- What are the potential risks to students of having contact with the community?
- What are the potential risks to students of travelling to and from their homes, the institution and the service site?
- What are the potential risks to services staff and community (clients) of having students on site, and how might such risks be minimised?
- How is risk and liability insurance provided to cover the students?
- How is confidentiality of students, services staff and community assured?

In addition to attending to the above questions, academics should:

- Visit the service site where students are likely to be during their service-learning experience.
- Once the module has started, visit the service site while students are there, to gain first-hand knowledge of the situations in which students are serving and learning.
- Meet with community and service partners after the service-learning experience has ended, to 'debrief' about the experience from the risk management and liability points of view, in order to assess what should be done differently in future.

### 6.7.2 *Supervision*

Adequate supervision at the service site and in the community not only helps ensure effective service and learning by students. It also helps to create a safe environment for service-learning. (If the site does not provide supervision, the academic should request that a site supervisor be provided, to assure that the policies of the academic institution, and community and service agencies are being enforced and adhered to. The supervisor(s) should be orientated to risk management and liability issues, as ignorance is no excuse and will not limit the liability.

### **6.7.3 Orientation**

Orientation of students is crucial, as it will inform them about their conduct at the service site. Orientation should be a compulsory component of service-learning as students are introduced to the site and possible risks that exist. Orientation is thus an important risk prevention measure. (See Appendix C for guidelines on how to prepare students for any off-campus, HEI-related activities.) The following points identify what should occur during orientation to the site:

- Risk management and liability issues should be covered in the programme's orientation for participating students, academic staff and community and service agency partners. Students should be made aware of risks associated with service-learning, but such risks should be presented in context so as not to frighten students unduly or dissuade them from participating.
- Conduct discussion with the class regarding both the risks and benefits involved in community service, and the skills required. It can be helpful to involve students who have previously completed the service-learning experience as speakers during the orientation. Students often feel more comfortable about the situation if they hear about the positive experiences of other students. It is especially important to spend time training students in safety procedures, potential dangers and the risk management policies of the HEI, and community and service partners. Time spent here can help avoid future problems by bringing potential problems to the attention of participants. When orientating students, community and services partners, provide a summary handout or handbook with checklists, appropriate forms and emergency contact information.

### **6.7.4 Indemnity, consent forms and permission slips**

Refer to the acknowledgement of risk form for students, in Appendix D.

Various forms are available for use in managing risks at the service sites. Such forms are crucial in the absence of safety policies at HEIs.

- Indemnity and informed consent forms serve as a means of informing and educating students, staff and community and service partners, and can help decrease the likelihood of lawsuits and improve the legal defence of your organisation, in the event that a lawsuit is filed.
- When people sign well crafted forms they are less likely to file suit.
- It is important to be aware that minors cannot sign contracts and parents/ guardians cannot legally waive the rights of their children. Instead, indemnity and informed consent forms can help document how organisations communicated potential risks and that participants

understood these risks. These documents only protect organisations against specific risks identified in the document and are only effective if the participant has a reasonable choice to decline to sign; for example, if a student were performing a service project that had to be completed in order for him/her to graduate, any indemnity or informed consent form would be invalid, because there would be serious repercussions (i.e. not graduating) were the student to fail to sign. If, on the other hand, there were several other service projects from which to choose and the student understood that s/he could simply choose one project, such a form would carry more weight.

- Permission slips are a good idea, if for no other reason than to let parents/ guardians know what their children are involved in. However, permission slips also protect your organisation from claims that it interfered with parental custody and authority over a minor. Permission slips do NOT transfer liability or take away the right of parents/ guardians to file suit (Points of Light Foundation, 2002).
- It should be noted that indemnity forms do not cover the HEI for liability but they do inform students about the risks involved, making them more conscious of their safety and raising their awareness of potential risks.

### **6.7.5 Communication**

Open, frequent and clear lines of communication are key to reducing risks in service-learning; for example, community and service agency partners and students should know whom to contact at the HEI should any questions or emergencies arise in the course of the service-learning experience. The setting up of these clear lines of communication could provide students with the opportunity to report difficulties to their supervisor. Regular communication with community and service partners should help to identify any issues or concerns and to address them early in the process.

### **6.7.6 Transportation**

See Appendix **E** for the University of Pretoria's guidelines for ensuring the safety of students during community-based education, including an annexure specifically providing hints for drivers/ passengers.

- Transportation is one of the most frequently listed 'barriers' to engaging youth in service. Partly this is because transportation involves bearing responsibility for an extra set of risks. Unfortunately, if an organisation has staff or volunteers driving any vehicle as part of service activities, it can be held liable for the driver, vehicles and passengers – regardless of who owns the vehicle.

- HEIs often state, in an informed consent form, that they are not liable for students getting to and from community sites. When the vehicle is either institution-owned or operated, or community agency-owned or operated, the following practices can minimise risks to both student and driver: to ensure acceptable quality of all drivers, develop policies and standards in terms of which drivers must qualify; follow safety precautions; develop and implement training for all drivers; ensure all vehicles are safe (with appropriate maintenance schedules); and provide policies for passenger behaviour.
- When students will be required to use public transportation, it is necessary to determine the risks of bus, train, taxis, subway, walking etc. and to take actions to minimise such risks (e.g. by organising car pools, pairing students who travel by bus/ taxi together to the site).

#### **6.7.7 Loss reporting file**

The loss reporting file can serve to diminish future violations and/or injury. It should include:

- Records of: accidents; safety violations; and training and orientation sessions; as well as participant sign-up sheets.
- Any relevant maintenance schedules (i.e. for HEI vehicles used to transport service-learning students); and reports of recommended corrective actions, claims reports, and so forth.

#### **6.7.8 Insurance**

Discuss the safety implications with service supervisor(s) with regard to their insurance for volunteer or support staff.

### **6.8 RISK MANAGEMENT POLICY/ GUIDELINES AND PROCEDURES MANUAL**

A service-learning/ community engagement office or a person assigned to service-learning should compile and regularly update risk management manuals and make them available to academic staff, and community and service partners. The manuals should include the following:

- Mission, goals and objectives of the service-learning programme;
- Mission, goals and objectives of the risk management programme;
- Relevant policies and procedures: for example, liability policies, sexual harassment policies, human subjects protection policies, and campus or community vehicle policy;
- Contact information for HEI, community and service agency staff dedicated to the process of risk management and liability;
- List of approved service-learning and volunteer placements with contact information, highlighting any site-specific forms that need to be completed (e.g. fingerprinting, background checks);
- Service-learning agreement or contract: This form should explicitly state the legal roles and responsibilities of HEI, community and service partners engaged in service-learning;
- Student-related documents: A checklist of forms that students need to review and/or complete, and copies of these forms. For example, waiver, permission and information about

the possible dangers of the service-learning experience should be obtained in writing and kept on file. A good informed consent procedure can minimise the possibility of a claim alleging that the harmed party would not have participated in the experience had s/he been better informed of the risks (Tremper and Kostin, 1997);

- Community and service partner related documents: A checklist of forms that community and service partners need to review and/or complete, and copies of these forms. For example, service-learning contracts, memoranda of understanding, certificate of liability insurance, and time log to keep track of student hours supervision and participation on site;
- Safety and risk management tips for students in service-learning: This list should be developed from the voices of both the community and campus. Example 'do's and don'ts' might include: do not give service staff or community participants a lift in a personal vehicle; do not engage in any type of business with the community during the term of your service; do not give or loan a client money or other personal belongings.

### **6.8.1 Guidelines for students entering an unfamiliar community**

When students are about to embark on their service-learning experience in unfamiliar communities, they should adhere to the following guidelines, which will enhance the learning experience:

- Know your site supervisor. Ask him/her questions about the area. Solicit his/her advice on what precautions you need to take to avoid difficult situations.
- Familiarise yourself with the area. Get to know the location of phones, 24-hour stores, police stations, fire stations, agency staff, other service agencies in the area and local businesses.
- Know the rules of the site. These rules are in place to ensure the most efficient functioning of the operation. Rules about training requirements such as background checks, confidentiality pledges or immunisations are intended to protect both you and the people with whom you are working.
- Be accessible. Give the phone number of your service site and a schedule of your hours to a relative or friend before leaving to do community service.
- Work in pairs. Try not to be alone with clients without adequate supervision.
- Stay informed. Stay in touch with your fellow community and/or service agency workers and keep up with incidents and issues affecting the area in which you serve.
- Trust your instincts. Sometimes the only indication you will have about impending problems is your 'gut feeling'. These feelings are enough of a signal to take precautions or simply suspend your activity but be sure to explain them to your supervisor.
- Do what feels right. If you do not feel comfortable or safe participating in a certain activity, do not hesitate to share your feelings with your site supervisor. You are not required to participate in any activity that makes you feel uncomfortable or unsafe.

## 6.9 AGREEMENTS AND CONTRACTING

Create your own agreements, or use the sample service-learning agreement or memorandum of understanding supplied here in Appendix B. Let your institution's legal advisor review the document to ensure that it is within the requirements of the legal system.



### SELF-STUDY ACTIVITY

**Imagine the following scenarios:**

1) Fourth-year Nursing students, as part of their service-learning experience, are placed at a Community Health Centre. Prior to the placement they engage in a week long orientation programme. These students are expected to provide a healthcare service to all patients and need to follow a general protocol prescribed for HIV/AIDS in primary healthcare facilities. While providing a service to a patient, a student is exposed to a needle-stick injury. What risk management procedures are in place to effectively deal with this scenario?

2) Psychology students are placed at a non-governmental organisation for the aged as part of their service-learning placement. The students provide bereavement counselling to spouses. A student is alleged to have inappropriately touched a 60-year old woman during a counselling session. The woman lodges a complaint of sexual harassment. What can academic staff do to protect students from these kinds of allegations?

**Analyse these case studies by identifying the factors that contributed to the problems arising, and the procedures that need to be put in place to prevent a liability suit. Provide recommendations for how such risk can be prevented in the future.**