

Before the Storm: Creating Your Crisis Management Tool Kit

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Assessing Risk



Assessing Risk: What to Consider

- Nature of organization
- What are you doing, who is doing it, and what organizations are you collaborating with?
- Risk appetite of leadership and staff
- Past experiences
- Who to involve and how?
- Assessment tools
 - Risk register
 - Mock audits & compliance reviews

Assessing Risk: Types of Risks

- Legal/Compliance
- Financial
- IT/Data
- Physical/Safety
- Reputational
- Slow-moving
- Political

Assessing Risk: Political Risks

- “Halo” effect
- Interactions with federal, state, and local government officials and employees
 - Federal Lobbying Disclosure Act (2 U.S.C. § 1601 et seq.) and state and local lobbying laws
 - Freedom of Information Act (5 U.S.C. § 552 et seq.) and state and local public records laws
 - Providing grants and resources to government
 - Detailing staff/consultants to government (Intergovernmental Personnel Act mobility program, 5 C.F.R. part 334)
 - Federal, state, and local gifts and ethics restrictions
 - Revolving door restrictions
- Foreign Agents Registration Act (22 U.S.C. § 611 et seq.)
- Interactions with federal, state, and local candidates
- Ballot measure activity
- Voter registration and GOTV activity
- Congressional/legislative investigations

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Your Tools: What's your plan?

- Get a little better every day
 - What systems need to be updated as your organization evolves?
- Funding opportunities: foundation grants & pro bono support
- Develop crisis plan(s)
 - Have plans most likely situations & 1 all-purpose plan
 - Keep it short (who, what, where, when, how & draft messaging)
 - Who would manage risk during a situation?
 - Type of risk; skill set, judgment, experience and perspective of participants
 - Define and delineate internal versus external crisis roles
 - Good professionals on speed dial
 - Get insurance company approval in advance
 - Practice!

Your Tools: Governance

- Does the organization have key governance policies and are they followed? *Structure matters most when times get tough.*
- Does the Board have a strong understanding of the organization and management, including its strengths/weaknesses? *Without that fundamental understanding, the Board's assistance may be unhelpful at best.*
- Does the Board have the right combination of experience and expertise? *Diverse backgrounds, approaches, and skills enhance decision-making.*
- Do the Board and management have a strong functional relationship with clearly defined roles? *A failure to communicate or miscommunications and misunderstandings can make a crisis even worse.*

Your Tools: Staff

- What is your organization's culture?
 - Team spirit versus fiefdoms and silos
 - Open communication
 - Governance systems
 - History of charity and events that have made people panic
- How is HR involved in the process?
- What resources and tools are available to staff to raise their concerns?
 - Ethics hotline, ombudsmen, whistleblower policy
 - Town halls

Your Tools: Staff

- Empower your staff by giving them the tools & knowledge they need to do their job
- Guidance through policies and templates
- Training:
 - What is your onboarding process?
 - Targeted training – departmental, level, geographic
 - In person vs. live remote vs. recorded
 - Who trains? Internal experts vs. external experts
 - Tabletops
 - How can you help increase or support?
 - Open/strengthen communication with the legal team

Your Tools: Staff

Possible training topics:

- Organizational mission and values
- Cybersecurity, technology & communication hygiene
- HR
 - Anti-harassment
 - DEI
 - Wage & hour
 - Independent contractors vs. employees
- Legal Compliance
 - Ethics and conflict of interest
 - Lobbying & political rules
 - Fundraising
 - Grantmaking

Your Tools: Insurance

- D.C. Nonprofit Corporation Act
 - § 29–406.57 – permits a nonprofit to purchase D&O insurance
 - § 29–406.48(e) – permits a nonprofit to provide or maintain insurance on behalf of an employee, agent or volunteer
 - § 29–406.90
 - immunity from civil liability for volunteers of c/3 organizations
 - Immunity from civil liability for volunteers of other nonprofits that maintain liability insurance with certain coverage limits
 - § 29–406.91 – limits liability of nonprofit for acts of employees to the extent of the organization's insurance coverage

Your Tools: Insurance

- Most common insurance types:
 - General liability
 - D&O
 - Professional Liability
 - Employment Practices Liability
 - Commercial Property (more than just land & buildings)
 - Cyber
- Others to consider:
 - Media Liability
 - Key Person

Your Tools: Information Security

- What is your IS landscape?
 - Data and Information
 - What data do you have?
 - Does everyone have access to all data?
 - What are your communication channels & practices?
 - BYOD or company-owned devices? Or both?
 - Document retention (& deletion)
- What is your IS response capability?
 - Cybersecurity and breaches
 - Subpoena/e-discovery response

Don't forget physical security, too.

**Questions
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