Collaborative Working and Mergers

Many charities are finding increasing pressure on their traditional sources of income.

Whilst the Government has provided a lot of funding through the pandemic some sources of income may have become temporarily or even permanently curtailed. There is also still an uncertainty around the medium/long term threat to grant funding in the aftermath of the pandemic.

As trustees of charities, you need to be innovative in finding either new sources of income or finding different ways to operate more efficiently.

There is potential to find efficiencies by working with other charities through collaborative working or sometimes a decision to collaborate can lead to a formal merger of two or more charities.

Collaborative working

Collaborative working describes joint working by two or more charities to fulfil their charitable purposes, whilst remaining separate organisations. Types of collaborative working which may be fixed term or permanent include:

- Informal collaborations such as information sharing or lending equipment.
- Outsourced functions such as finance, payroll, or IT.
- Sharing resources, premises, or staffing.
- Joint events, projects, or programmes.

In theory, all of the above could lead to cost savings and may look favourable to funders, however, trustees must ensure that there are clear benefits to the collaborative working arrangement and that the risks are understood before going ahead.

Trustees must act in the best interests of their charity, so you need to ask yourselves some key questions:

1 Is the arrangement being considered legally viable?

There are unlikely to be any legal barriers for working collaboratively, providing your charitable objectives are being furthered and the arrangement is permitted by your Governing Document. However, it is likely there will need to be formal legal agreements such as a Memorandum of Understanding, a Service Level Agreement or a contract over the collaboration and formal legal advice should be sought. The structure of the collaboration should be considered as it may be more appropriate to set up a separate legal entity, for example a joint venture.

2 What are the reasons for collaborating and how will it impact your charity's beneficiaries?

It is important to fully understand your drivers for collaborating, but also your prospective partners' motivations for collaborating. The most common drivers include: cost savings, expertise sharing, greater public awareness and access to new funders. However, the collaboration should not detract from the charity's current projects as there is a risk too much attention may be given to the new collaboration, which could have a negative impact for your charity's core beneficiaries.

3 What will or might your charity gain and lose from collaborating? Are there significant reputational or financial risks?

With any new arrangement, there is a real risk that the efficiencies and benefits envisaged will not be realised. Barriers for charities working effectively together can include poor communication between parties, lack of responsibility taken by either party and issues surrounding integrating staff and systems. You need to fully understand the organisation you are collaborating with as there is a potential reputational risk to your charity if your partner fails to deliver.

Full Merger

After communication has started between two or more charities, it may become apparent that a merger would be in the best interests of both charities' beneficiaries and be best use of charitable funds. A merger is where two or more separate charities come together to form one organisation.

This could be achieved by; forming a new charity which takes over the work and assets of the original charities, one charity could transfer its assets and activities to become part of another charity or one charity could assume control of the other charity, forming a group.

As with collaborative working, you as trustees should not take this decision lightly and need to consider several matters:

- **Probable costs of a merger**

  There are several costs of a merger which can be considered in advance, including professional fees, costs of integrating systems, relocation expenses and rebranding. The costs of a merger are proper use of charity funds. However, there could be unforeseen costs such as the impact of any disruptions and loss of existing funding, for example if a funder already donated to both charities and then reduces their funding levels.

- **What powers are available to each Charity to achieve the merger?**

  The charity's governing document must contain the appropriate powers that allow the trustees to authorise a merger. To be able to merge, the charities must have compatible charitable objectives. If these are incompatible but the trustees feel there is a strong case for merger, they can contact the Charity Commission/ OSCR for help with consent and facilitating the merger. It may be once the charities merge, the assets transferred from one charity need to be considered as restricted funds. If the merger does go ahead, in most instances it is required to be registered with the Charity Commission/OSCR.

- **Level of Due Diligence exercise required**

  As trustees' you need to decide whether it is appropriate to have an in-house due diligence exercise or if a professional adviser should carry out any due diligence required. A due diligence exercise should cover commercial, financial, and legal issues and should help ensure there are no surprises.

- **Level of Risk Involved with the merger and how it can be mitigated**

  The main risks associated with merging include the disruption of current service delivery, the loss of key staff due to uncertainty and integration issues. These risks can be minimised by having good project management and a detailed project plan with clear milestones which are communicated clearly to the beneficiaries, staff and funders from the outset.

Conclusion

There can undoubtedly be benefits from collaborative working or a merger, but to realise these benefits, careful planning by trustees is required. Strong leadership is required from the outset with well-defined objectives to maximise the success of the arrangement.

As a Trustee What Indicators Should I Look for in my Charity That Collaborative Working or a Merger may be Worthy of Consideration?

- Is funding under pressure or being cut? A merger or working with another charity could give access to new funding sources, as some funders may see partnership working better as value for money.
- Is there a high level of overheads where synergies could be achieved by combining resources?
- Are there opportunities to knowledge share with a similar organisation?
- Is there an opportunity to improve your charity's public profile?
- If your charity is involved in campaigning and lobbying, would working with another party increase creditability?

Did you know?

The Charity Commission's main guidance is document CC34 "Collaborative working and mergers: an introduction". According to the good merger index produced by Eastside Primetimers, the sector saw 68 merger deals between 138 charitable organisations with cumulative income of £583.3m in the twelve months to 30 April 2020. This is a very small number when you consider how many charities there are in the UK. Moreover, most charity mergers have at least one party to the arrangement that was already been in financial distress and have only considered a merger as a final option at or near to point of closure.

Opportunities must exist in the sector for progressive trustees to consider collaborative working or a merger for the potential benefits, rather than as a final measure due to the instability within the sector.

How we can help

We can provide integration advice including business planning/projections, due diligence, governance, and structure advice. If you would like to speak to a member of our team about how we can help, then please get in touch with your local MHA member firm.

If you would like to discuss any matter arising from this article please contact MHA on info@mha-uk.com or your usual MHA contact.