

Charities working in partnership

In a tougher funding environment, charities are increasingly working collaboratively with other organisations to make resources go further and more effectively advance their purposes. Many commissioners now want to deal with fewer contractors which has pushed charities to work more closely together and with organisations from other sectors. There are many benefits of working in partnership, including increased reach and improved service delivery.

What is the purpose of the partnership?

It is sensible to start by identifying exactly what your charity wants to gain from the partnership. This may be a mix of benefits, including furthering the aims of the organisation, gaining access to new skills and cost savings.

Making a partnership work takes time and resource and can often put pressure on an organisation. The potential advantages need to be weighed against such disadvantages. It is advisable to take some time at the start to consider whether your charity is in a position to enter into a partnership. Most charities will have the legal power to do so (although the governing document should be checked), but there are also more pragmatic considerations to bear in mind.

In our experience, cultural differences can be a significant challenge for charities working together and some mergers fail because of it. Consider a potential partner's culture and try to see things through their eyes – are you aiming to achieve the same thing? If possible, it can be a good idea to work together on a pilot project before moving ahead with a more substantial partnership arrangement.

Work on a shared vision

For a partnership to work, the partners need to be clear at the outset about its purpose. A good way to do this is by considering what success will look like and how you are going to measure the impact of your collaboration. The partnership can then be evaluated as the project develops.

There will often need to be some discussions about the scope of the partnership and the roles of the partners. Know your 'bottom line'. What are you prepared to compromise on? What are the fundamental requirements for your organisation?

Identifying and managing risks

Partnerships can be a valuable opportunity for a charity, but there are risks to consider. Some of the problems that we see include poor quality work by a partner, loss of control and flexibility, a drain on resources, disruption to existing work, reputational damage and financial loss.

The risks can best be managed at the start by doing your homework with appropriate due diligence and considering the financial situation of the partner in particular. It is important to calculate the true costs of the partnership, both in terms of money and management time. Having an exit strategy in case things go wrong is also sensible.

The thing that makes or breaks collaborations is often communication. Good communication is fundamental to any successful partnership. This can be helped by putting in place clear governance arrangements, such as a steering committee and regular reporting requirements.

Putting paperwork in place

Many partnerships start as something fairly informal, but it is important to have an eye to the systems and documents that should be in place, to avoid uncertainty and make sure both partners are clear about their obligations, in case things go wrong.

Charities often need to strike the right balance between setting a collaborative tone in the paperwork and ensuring that appropriate legal protections are included. Sometimes a non-legally binding memorandum of understanding will be sufficient, but you may need to consider legal provisions for matters such as confidentiality and the protection of intellectual property. Also consider legal advice for more complex partnership arrangements, where there are contractual obligations or material risks.

Delivery of services

Partnerships are increasingly being established to deliver services and, where this is the case, a more detailed contract may need to be in place to govern the partnership. We find that many disagreements in relation to service contracts arise from the description of the services to be provided set out in the specification. It is therefore particularly important that both partners are clear on what needs to be delivered and who is responsible for what. Termination provisions also need to be considered very carefully, so you know how to get out of the partnership if there are problems, or if it stops being viable financially. Amongst other things, you should also consider any employment implications (for example if staff might transfer under the TUPE regulations), as well as warranties, intellectual property ownership, payment mechanisms and reporting requirements.

Legal meaning of partnership

We often advise clients to describe arrangements for working together as a 'collaboration' and to include a statement clarifying that the parties do not intend to create a partnership in any memorandum of understanding or other agreement. The term 'partnership' has a specific technical legal meaning, being a relationship which subsists between two or more persons carrying on business in common with a view to profit. Usually the arrangements between charities will not principally be for this purpose.

One final thought. Be aware of 'mission-drift' and always remember to keep your beneficiaries in mind, so the partnership does not become an end in itself.

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