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IVAR Institute for Voluntary Action Research

Thinking about… merger

THINKING ABOUT SERIES

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Terms
We use 'voluntary organisations' in this document as a broad term to cover organisations which variously describe themselves as belonging to the following:

- community sector
- voluntary and community sector
- third sector
- non-profit sector
- civil society
- NGO sector.

IVAR's Thinking about… series

The *Thinking about…* series is based around a straightforward idea. Drawing on the findings from previous research (our own and that of others) we want to provide practical, useful information for voluntary organisations that is grounded in the experiences of others.

The *Thinking about…* series is not prescriptive, nor does it offer 'toolkits' or step-by-step guides for organisations to follow. It is intended to help practitioners make informed decisions about changes they may be considering.

The *Thinking about…* series is primarily aimed at staff and trustees of small to medium-sized voluntary organisations. However, we believe that policy-makers, academics and those with an interest in the voluntary sector will also find the series illuminating and thought-provoking.

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1

Introduction

A merger is one of the most challenging steps a voluntary organisation can make – aside perhaps from formation or closure. It can create tensions as well as excitement, be the cause of much debate and lead to permanent and irreversible change. Our research suggests that, in order to work, mergers should be treated with a degree of caution; they certainly need to be thought through patiently and carefully.

This publication is primarily for staff and trustees of small and medium-sized voluntary organisations. It is not a guide to financial aspects of merger, nor is it a step-by-step 'toolkit'. Instead, it brings together the experiences of a wide variety of voluntary organisations and advisors that have contemplated or carried out merger to highlight different dimensions of 'thinking about merger'.

Since at least the time of the first New Labour government in 1997, UK public policy has emphasised the role of voluntary organisations as public services providers, alongside their role in social and democratic renewal. Since then, public policy documents have encouraged voluntary organisations to work collaboratively both within and across sectoral boundaries. Specifically, voluntary organisations have been encouraged to consider merger as a means to improve efficiency and prevent duplication in service delivery. In 2009, the Cabinet Office introduced the Modernisation Fund of £16.5 million to encourage collaboration and merger in order to *'support viable third sector organisations…[to] become more resilient and efficient in the recession'*.[i] In 2010, the coalition government published its first strategy for the voluntary sector.[ii iii] As part of its encouragement to *'help organisations modernise, become more efficient and more entrepreneurial'*, the potential benefits of mergers and 'substantial collaboration' were again highlighted.

Despite this interest from policy-makers and pressure from public sector commissioners of services, research suggests that voluntary organisations should be cautious about mergers. As such, we consider preliminary thinking to be a critical part of any merger process in voluntary organisations.

This document covers:

- reasons for thinking about merger
- stages in the process of merger
- what can help make a successful merger
- other resources and further reading.

About our case examples

The examples we use are from IVAR's collaborative research projects or research published by others. We include the experiences of community sector membership bodies and voluntary organisations working in the fields of HIV and AIDS, homelessness, lone parenthood, looked-after children, volunteering and housing. To protect anonymity, we do not name the organisations featured except where drawing on documents that are already in the public domain. We are also grateful to the trustees of TACT (The Adolescent and Children's Trust), Gingerbread (the product of a merger of the National Council for One Parent Families and Gingerbread) and Locality (the product of a merger of bassac and the Development Trusts Association) who have allowed us to draw on their experience of mergers. Throughout this publication we use IVAR's 2009 review of TACT's mergers with four smaller organisations between 2005 and 2007 to highlight a number of 'critical success factors'.[iv]

About the terms we use

There is no single agreed definition of **merger**; practitioners, legal experts and academics have found a variety of different ways to explain the term. At its simplest, it can be understood as a formal long term arrangement to work collaboratively. For the purposes of this document, we use an adapted version of the definition of merger found in the Charities Act 2006. The Act states that a merger is '*one or more [voluntary organisations] passing its assets to another [voluntary organisation] and then dissolving … or two or more charities passing their assets to a new [voluntary organisation] and then dissolving.*' [v]

It is, though, important to note that merger might not be the only option for organisations; other types of collaboration might work just as well. For example, a specific one-off development might be better pursued through a joint venture; and core costs can be reduced by contracting out the finance function. Trustees and senior staff therefore need to ensure that merger, rather than an alternative form of collaboration, is in the best interests of the organisation, its mission and its stakeholders.[vi]

In practice, collaboration can reflect points on a spectrum of relationships, involving different levels of commitment, degrees of permanence, risks and rewards. The collaboration spectrum in Table 1 shows the key features of some frequently used methods of collaboration; further details are in the Appendix on p 32. In our own research we have observed that some of the problems that arise around mergers are due to confusion about the range of organisational collaborations available. Attempting to combine features of different types of collaboration can be particularly problematic.

Table 1: A collaboration spectrum

Informal alliance	An arrangement that is essentially informal, based on good relationships and understandings that may be written but are non-contractual.
Contract based alliance	A relationship that is underpinned by a contract between the parties that sets out the objectives, respective roles and cost-sharing and charging arrangements.
Joint venture	The parties establish a legal entity, which they jointly own and control, for the purpose of undertaking specified functions.
Group structure	One example of a group structure is when parties agree to become controlled by a holding entity, which owns or controls the parties (subsidiaries preserve their original identity).
Merger	The parties merge on whatever basis is agreed. This either creates a new entity (where there is relative equality between the joining parties) or enlarges an existing entity. The latter is more properly referred to as a 'takeover'.

2

Reasons for thinking about merger

Our research experience suggests that any contemplation of change on the scale of a merger needs to be firmly rooted in an exploration of why it is potentially relevant to an organisation.

Merger in the voluntary sector can be a reactive strategy, such as:

- a last-resort effort to survive in response to external pressures
- a strategy for dealing with an environment of uncertainty and scarce resources
- a response to pressures arising from commissioning and contracting
- a response to the influence of funding bodies.

On the other hand, it can be part of a more proactive strategy to:

- meet users' needs more effectively
- have greater influence on the external environment
- expand the range of services provided.

In practice, it is often a combination of factors that has a bearing on the decision. Our own research[vii] has identified the following seven major reasons why voluntary organisations consider merger:

- the vulnerability of smallness
- financial pressures
- governance problems
- influencing the external environment
- meeting users' needs more effectively
- broadening the organisation's offer
- having a history of collaboration.

However, these are not mutually exclusive and can occur in combination.

2.1

The vulnerability of smallness

Smaller agencies can feel vulnerable in a highly competitive and volatile environment. A lack of organisational infrastructure may make it difficult for them to provide and market their primary services, liaise with local authority commissioners and prepare funding bids. In such cases, merger could be viewed as a way to continue providing a service to their client group with more resources and a less fragile infrastructure.

TACT and ELF (East London Foster Carers) began thinking about merger in 2003. They shared a view that small not-for-profit fostering agencies like themselves were vulnerable in a volatile external market, with *'too many agencies chasing too few placements'*. In this case, *'competition and crowding out acted as drivers towards closer collaboration.'* They felt that a merged (and hence larger and stronger) organisation would be more sustainable and better able to compete with private fostering agencies and negotiate with local authorities.

When PRO-SIBS and TACT considered merger in 2004, pressures from the external market were again apparent. As a small organisation, PRO-SIBS had difficulties complying with the demands that the regulatory environment placed on fostering agencies: '*because it was small [PRO-SIBS], the changes in regulations were putting more onus on staff.*'

2.2

Financial pressures

Funding-related issues have a bearing on many merger decisions. Some funders – local authorities in particular – appear to be trying to make savings by funding a smaller number of organisations in their areas or looking at organisations on a regional basis rather than across one local authority area. Research by NAVCA[viii] (National Association for Voluntary and Community Action) indicates that some local authorities are pushing local infrastructure bodies to merge, while issues related to government funding were reported to have been a factor in the Victim Support Federation's decision to become one organisation.[ix] In our own research, we have seen several examples of voluntary organisations under pressure to collaborate in order to tender to local authorities and primary care trusts for the delivery of public services.

The desire for financial stability was one of the factors influencing Gingerbread's decision to merge with the National Council for One Parent Families (NCOPF) in 2007. Various funding applications had been unsuccessful; Gingerbread's local groups at the time required a lot of resources and it was becoming more difficult for the organisation to remain independent and solvent. Although they had a business plan, they lacked the resources to implement it: *'we didn't have enough money to employ enough staff to implement the business plan'*. Merger with NCOPF offered the opportunity for financial sustainability and for the continuation of some of Gingerbread's work.

2.3

Governance problems

Our research found that ongoing governance problems – such as a lack of strategic engagement or staff/trustee disagreements over an organisation's future direction – can also be drivers towards merger.

Trustees of smaller voluntary organisations often have to volunteer large amounts of their time, which may eventually become too much to cope with despite their high levels of commitment to the organisation. This may lead them to consider other options, including merger.

When PRO-SIBS and TACT were considering merger, PRO-SIBS' trustees were aware that internal organisational factors were impeding their development. They were a small organisation, founded by people with a real passion for achieving positive outcomes for looked-after children, but the huge operational demands on trustees were proving difficult to maintain.

At the same time, they were struggling to adjust to a complex external environment and were finding it difficult to recruit more trustees with knowledge of social work practice and the fostering environment. Merger with TACT offered the opportunity to retain some of the positive aspects of PRO-SIBS' practice, but within an organisation which had a wider set of skills and experience at board level.

Gingerbread's governance arrangements had historically been based on the principle of 'by lone parents, for lone parents'. By 2006, it was apparent that, whilst most members wanted to have contact with each other and / or to receive information relevant to their circumstances, they did not also want to run the organisation: *'we saw this as a crisis in terms of the old structures'*. When the decision was taken to co-opt new members with the skills to think and act strategically, the model of governance changed, and: *'this re-opened the debate about Gingerbread's future and the options available: continuation of the voluntary, self-help structure; modernisation or a third option: merger'*.

2.4

Influencing the external environment

A desire for voluntary organisations to have greater influence on their external environment – particularly on funders and policy-makers – has been a recurring theme in our research. Some organisations wanted more of a say on national policy and practice relating to their client group. In one case, it was suggested that the merger of voluntary organisations concerned with slightly different aspects of work with a single client group could create an enhanced evidence base for policy advocacy.

The Development Trusts Association (DTA) and the British Association of Settlements and Social Action Centres (bassac) took the decision to explore merger in March 2010, with formal merger and the creation of the new organisation, Locality, taking place a year later. Both organisations were committed to influencing government policy to achieve social change, and had had some success in doing this individually as well as through their membership of the Community Alliance. They considered that merger would enable them to build a stronger evidence base from their combined memberships that could wield even greater influence: *'a very powerful player on behalf of the community sector; a stronger voice for a larger membership; a partner for government to do business with, with a strong track record of delivery'*. Together they envisaged the development of a more effective 'voice' role as a means by which the needs, concerns and interests of local communities could be heard.

2.5

Meeting users' needs more effectively

The desire to meet users' needs more effectively has been a strong driver in several mergers. Some years ago, the changing needs of people living with or affected by HIV were a key factor when the Terrence Higgins Trust and regional HIV and AIDS agencies considered merger. It was seen as an opportunity to provide a wider, more coordinated and consistent range of services.[x]

In NAVCA's report on mergers, Cumbrian infrastructure organisations were strongly motivated by the desire to provide *'stronger, efficient, more equitable and accessible delivery of voluntary and community sector infrastructure support services across Cumbria and to maximise opportunities for funding.'* [xi]

At a national level, the three chief executives of the bodies involved in the merger that led to the creation of Volunteering England considered that a fragmented national infrastructure was not in the best interest of the strategic development of volunteering.[xii]

All of those involved in the mergers of organisations concerned with looked-after children cared passionately about the welfare of their client group. Merger was seen as an opportunity to meet their needs more effectively: it could provide diversification of provision under one umbrella, more specialised services and access to a wider range of staff expertise:

It was *'an opportunity to provide more and better services for children and young people.'*

'We can achieve more together than by working singly.'

In Gingerbread and NCOPF too, there was a strong concern to meet the needs of lone parents as effectively as possible. It was thought that merger could both create a stronger organisation and achieve economies of scale, freeing up resources to be spent on lone parents: *'it's about strengthening support for, strengthening the voice of, strengthening the provision of services to a sector of society that both charities feel is in a unique position'.*

2.6

Broadening the organisation's offer

The opportunity to broaden a portfolio of services was also frequently mentioned in our research as a motivating factor for merger.

> Diversification was seen as an important strategy for agencies operating in the competitive environment of fostering and adoption:
>
> *'We could move towards becoming a one-stop shop for children's needs.'*
>
> Providing a wider range of services within the one agency was seen as both beneficial for looked-after children and a strategy to ensure organisational sustainability.

2.7

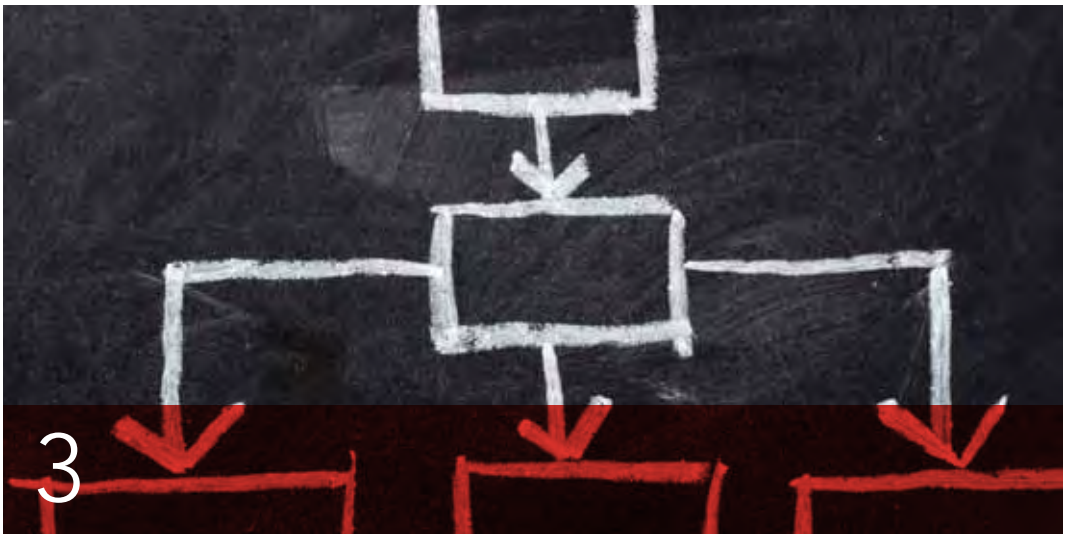
Having a history of collaboration

IVAR's research experience suggests that very few organisations actively go out to seek a merger partner, although they may compare the merits of potential partners. More usually, the idea of merger springs from existing contacts and joint work. This was evident, for example, in the merger of Volunteer Development England, the National Centre for Volunteering and the Consortium on Opportunities for Volunteering to form Volunteering England.[xiii]

> The co-location of bassac and the DTA, and their membership, along with Community Matters, of the Community Alliance, led to the development of close working relationships. This foundation was seen as having created a platform for bassac and DTA to revisit earlier discussions about a possible merger and see them through to the formation of Locality.

Our research supports this picture of a build-up towards closer collaborative working, a shared understanding of the needs of a client group and the development of trust between organisations. This was reflected in the merger of Terrence Higgins Trust with regional HIV and AIDS agencies[xiv] as well as the TACT mergers, where the opportunity to develop and build on personal contacts in the field of looked-after children led some of those involved to feel able to broach the subject of merger.

> TACT's involvement in the Fostering Charities group had brought them into regular contact with their merger partners. These existing relationships and previous networking between staff meant that TACT was aware of their partners' circumstances and interests, which effectively opened the door to consideration of the various mergers.



3

Stages in the merger process

While full legal merger takes place on a particular date, the melding together of two independent organisations into one entity happens over a period of time – both prior to and beyond the official date of merger.

'When can a merger be considered "successful"? When the ring goes on the finger or at the golden wedding anniversary…? Or when nobody talks about a separate entity, when the merged parts assume the spirit and body of the whole?… The prize offered by merger takes time to achieve.' [xv]

Merger is not a unique event. Rather it is a challenging mix of rational processes (meetings, plans and decisions) and 'politics' (emotions, feelings of loss, shifts in power and unforeseen events).

We have found it helpful in our work with voluntary organisations to consider merger in four stages: negotiation; decision making; planning and legal; and implementation. The amount of time needed for each of these stages will vary and they are unlikely to be self-contained. Often they will overlap and sometimes they are likely to have pauses between them.

Stage 1

Negotiation

Stage one is about identifying the perspectives of key people inside the organisations on issues such as:

- the drivers towards merger
- the overarching purpose and vision of a possible merger
- broad issues of organisational fit
- any obvious deal breakers
- the level of commitment among management teams and boards to take discussions to the next stage.

Stage 2

Decision making

Stage two involves:

- completing initial consultations with key stakeholders
- reaching consensus and formal agreement on a vision and outline model for the new organisation
- exploring how the more obvious power issues might be addressed – for example, how to decide the roles of chair and chief executive
- agreeing timescales and a process for subsequent stages.

Stage two might usefully conclude with boards reaffirming their initial decision in principle to proceed to a merger, possibly by drawing up a draft 'heads of agreement' document (see opposite for an example of issues to be discussed at this stage).

Alongside the paperwork and formal agreements, this second stage of the merger process relies heavily on the build up of trust. The decision to merge is a momentous one: no amount of planning and budgeting will avoid the feelings of loss, disquiet, upheaval, excitement and hope it can cause. It usually requires the people involved to make a leap of faith. As such, decision making needs to be grounded in dialogue, reflection and debate, all of which can help build trust.

Heads of agreement

Top level issues for the heads of agreement stage of discussions are likely to include:

1 Will a new charity be established into which both existing charities merge or will the assets and liabilities be transferred from one entity into the other?

2 If the merger is into an existing charity, will its objects need to be changed? If so Charity Commission (and if applicable Tenant Services Authority) consent will need to be obtained.

3 Will the transferring organisation(s) continue as a shell or be wound up?

4 What shape will the new board take – will some trustees resign and if so which ones? Who will chair the board? Should joint meetings begin informally before the formal transfer?

5 Will all employees be retained? If so, will that be on their existing, or new, terms and conditions? Particular attention should be paid to pension issues. What initial discussions will be held with staff and what will the message be? Formal consultation will need to be undertaken in accordance with TUPE requirements and any collective/ trade union agreements.

6 Will any existing properties be vacated/ replaced?

7 What level of due diligence has been undertaken and what is left to carry out? Are the parties satisfied with the responses to date?

8 What level of warranties and indemnities will be given? At a minimum the continuing organisation should agree to meet all liabilities subject to reasonable exclusions and the transferring organisation should warrant that it has given full disclosure in response to the due diligence questions that it has been asked.

9 Are the following willing to grant consent (and has this been secured formally):
   - 9.1 Funders?
   - 9.2 Landlords?
   - 9.3 Suppliers?
   - 9.4 Any other contractors?

10 Is there to be new branding, and if so has this been agreed?

11 What is the date for completion of the transfer?

12 What steps will be taken in relation to the media/publicising the merger or the pre-merger discussions? Is a non-disclosure agreement required for the initial stages?

13 Who will bear the costs of taking the merger forward?

Stage 3

Planning and legal

Stage three is about completing the formal and strategic preparations for merger including carrying out a 'due diligence' exercise.[xvi] Planning needs to extend beyond financial and human resource matters to include issues related to:

- quality, performance and management
- preparing transfer arrangements prior to the formal and final decision to merge
- the necessary legal and financial transactions that this will involve.

Legal issues to consider

Power to merge?
Both merging organisations need to check that they have the power to merge. This can usually be established by checking an organisation's governing document (the Articles of Association for a company, or otherwise a trust deed or a constitution).

Compatibility of objects
If one or both of the merging organisations are charities, particular care must be taken, as charity assets must continue to be used for the charitable purposes set out in a charity's objects. Clearly, the objects of both charities must be compatible. The objects are normally set out near the front of a charity's governing document. These are not usually the same as a charity's vision or mission and are usually expressed in more formal legal language. Where the objects of one charity are narrower than the other, one charity's assets may need to be transferred on separate trusts or as 'restricted funds' and even after the merger may be used only to further the objects of the transferring charity. Alternatively, it may be possible to change the objects of one charity to ensure that its assets can be transferred on an unrestricted basis. Prior Charity Commission consent is needed before a charity's objects can be changed.

Due diligence
Due diligence helps an organisation identify and assess the viability of its merger partner. It is a mutual process intended to provide detail about the other organisations' assets and liabilities and help identify any potential problems that might obstruct or delay the merger. The information gathered will be used to prepare a transfer agreement.

A typical due diligence process will involve each organisation sending the other party a 'due diligence questionnaire' - questions about property, employees, liabilities, complaints and legal claims, assets and general state of the merging charity. The response should identify the assets and liabilities of the merging partner.

The responses can then be used to:

- check the financial position of the merging partner
- identify any risks posed by the merger
- review employment and pension arrangements of staff. This may identify a need for specialist pensions advice
- identify any third party consents that are needed to the transfer e.g. funders, contractors, banks, insurers, HMRC or landlords.

Key legal steps
The legal process will vary depending on how the merger is carried out. For instance, sometimes the merging organisations establish a new entity and then transfer their respective assets (subject to their liabilities) to the new venture. See the box opposite for a broad summary of the legal steps involved.

Summary of legal steps to merger

1 Checking the compatibility of each charity's objects

2 Due diligence (discussed opposite)

3 Formal board resolutions to proceed with the merger. This may include identifying any legal issues to resolve, setting any conditions and a completion date

4 Drafting a transfer agreement

5 Seeking third party (e.g. funder) consent where necessary

6 Formally notifying staff in compliance with applicable employment legislation

7 Usually, further board resolutions to approve the transfer agreement and authorising one or two trustees / directors to sign

8 Completion – transfer agreement signed and dated – assets transferred

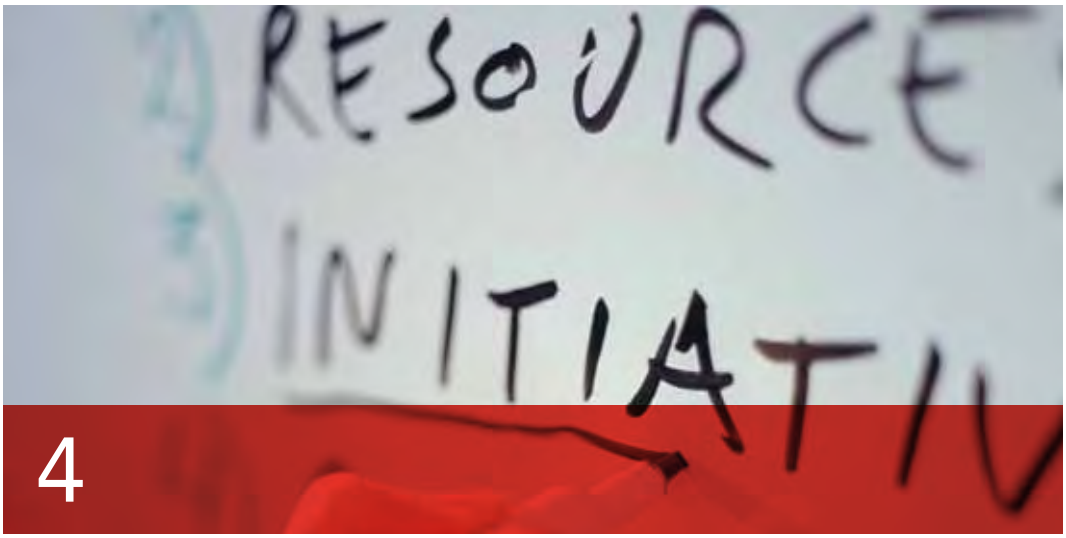
9 Notification of third parties about the merger where necessary

10 Preparing final accounts for the transferring charity, then winding it up and placing it on the Charity Commission register of mergers.

Stage 4

Implementation

Stage four is about beginning to realise the new organisation's vision and strategy. It may well take years to achieve full integration of staff, systems and procedures, although the length of time will depend on the size and complexity of the merger partners. It is a good idea to regard the post-merger integration period as an ongoing process of change that requires leadership, resources and structures.



4

What can help to make a sucessful merger?

Several published studies have considered the factors which might contribute to successful mergers (see *Further reading* section on p31 for more details).

There is general consensus about the following:

- the importance of merger being entered into as a positive, strategic choice with a shared vision between the partners of what the merger will achieve
- differences in organisational culture need to be handled sensitively
- there will inevitably be tensions between the need for organisational efficiency and the wish to remain values-based and accountable to stakeholders; this will need to be managed.

Discussions of the merger process have pointed to the need for a process which is equitable and inclusive, bearing in mind that involvement in decision making will affect people's perspectives on the process and outcomes.

However, there will always be an element in the process that leads individual organisations to full legal merger which is specific to that organisation and may often come from a feeling of whether it is the right thing to do rather than from a single identifiable rational reason. The organisations involved need to identify the key issues to be considered, the key questions to be asked and how the decision to merge (or not) can be adequately grounded and informed.

Our research suggests that the following factors can make a merger between two or more voluntary organisations more likely to succeed and secure the hoped-for benefits:

- a shared vision for the merged organisation
- strategic and organisational fit
- a business case for merger
- leadership
- recognising human factors
- good communications
- identifying deal breakers
- clear plans for the merger process and beyond
- resources
- sensitivity to different organisational cultures.

Some of these factors relate specifically to particular stages of the merger process; others apply throughout.

4.1

A shared vision for the merged organisation

Successful mergers are rooted in a clear vision for the merged organisation, in terms of its primary aims and how it will benefit its service users.

> The TACT mergers found that: 'There have to be tangible benefits for service users: if you can't see them or can't envisage them, don't do it. If you can, don't let the egos get in the way.

A commonly understood vision can help people overcome obstacles and deal with difficult decisions; without it negotiations can stall. It is particularly important when a merger takes place between organisations of different sizes, when power imbalances can create problems. In such circumstances, a shared vision can be a powerful reminder that the two organisations can help each other to realise their shared ambitions. The concept of exchange – where each party offers something that the other wants – helps contribute to the realisation of the shared vision. However, the articulation of a vision can take time. It will not necessarily be clearly defined at the outset of a merger process. Rather, it is more likely to emerge out of the various discussions and debates that take place as merger parties work more closely together on their joint endeavour.

QUESTIONS TO CONSIDER:

— *Is there a shared vision for the merged organisation? If not, how can this be developed?*

— *What does each organisation contribute towards achieving the shared vision?*

4.2

Strategic and organisational fit

Before taking the decision to merge, it is useful to consider how well matched the potential partners are with respect to:

- historical roots and ideology
- governance, structure and decision-making processes
- financial resources and funding base
- organisational strategy
- the use of technology.

A good match is not necessarily about similarities; complementary differences can contribute to an exchange.

QUESTIONS TO CONSIDER:

— *In what ways are the organisations similar? In what ways do they differ?*

— *What areas of each organisation do these similarities and differences relate to?*

— *Could the similarities help smooth the merger process? In what ways?*

— *Could the differences create barriers to merger? Or are they useful complementarities?*

— *How can the ethos of each organisation be protected in the merged organisation so that the shared vision can be achieved?*

4.3

A business case for merger

It is helpful if the voluntary organisations involved in a potential merger are able to set out the reasons why merger would enable them to meet their respective objectives more effectively than remaining independent. This may include being able to demonstrate tangible benefits to users and beneficiaries or greater financial strength that would enable the merged organisation to expand its services or meet other objectives.

A strong business case may help overcome a reluctance to consider merger by focusing attention on meeting the needs of beneficiaries.

QUESTIONS TO CONSIDER:

— *What will your clients and beneficiaries gain if you merge?*

— *Can you achieve these benefits by any other means?*

— *Have you compared the business case for merger with the business case for not merging?*

4.4

Leadership

Firm leadership is essential at all stages of a merger and particularly once the decision to merge has been taken. This does not mean that a single person needs to do all the work associated with a merger: the most effective path may be a working group drawn from all partners which reports back to trustees and senior staff. Delegating work in this way can help share the workload and ensure 'buy-in' to the merger beyond the senior staff team and trustees.

Even when work is shared, clear personal leadership is required to:

- explain the vision for the new organisation
- find solutions to contentious issues
- tackle unanticipated problems
- disseminate clear information to avoid rumour and uncertainty.

QUESTIONS TO CONSIDER:

— *How will leadership be distributed within and between the partners during and after the merger process?*

— *Who has formal and legal authority to make key decisions about the merger?*

— *Who has the personal qualities to be a 'merger champion' on a day–to-day basis?*

4.5

Recognising human factors

Merger negotiations in voluntary organisations can unravel if they do not fully recognise the importance of human factors in achieving organisational change from the outset. Mergers and strategic alliances are not only about rational choices; they also involve emotions and politics. A distinctive feature of voluntary organisations is the personal investment that staff, trustees and volunteers often make in an organisation's values and goals. As a result, changes to the work environment can be seen as threatening, although the extent and nature of threats may not be of equal weight between the merger partners.

QUESTIONS TO CONSIDER:

— *How will staff concerns be monitored and responded to during the merger process?*

— *What plans can we make to ensure that the staff of the newly merged organisation develop a common set of approaches and values?*

4.6

Good communications

Staff involvement in the merger process will vary according to role and seniority and in a large organisation it may not be possible to consult everyone. All the same, keeping people informed and reminding them of the purpose of the merger will help to minimise anxiety and avoid rumours. It can be difficult to strike the balance between telling everyone that merger is under discussion – and hence raising anxieties – and attempting to keep negotiations under wraps, thus running the risk of anxieties arising from rumour.

Our research experience suggests that the best course of action is to share information as soon as a decision is made to proceed towards merger. This information may include implications for individuals and an idea of timing for decisions about jobs. It can be helpful to have a designated individual for those affected to talk to.

QUESTIONS TO CONSIDER:

— *How will staff and trustees be kept informed about the merger process?*

— *Who needs to be informed and when?*

— *What issues are negotiable or open for consultation? What is for information only?*

— *How and by whom will the integration process be communicated to staff and trustees?*

— *Is there a process for dealing with enquiries or a designated person for staff and trustees to talk through anxieties or raise questions with?*

4.7

Identifying deal breakers

Having an articulated vision for a merged organisation can help those involved in merger negotiations to begin to identify their deal breakers, which may include:

- the new organisation's name and brand
- the composition of the new board
- the first chair
- the chief executive officer
- retention of staff
- pension provision and future liabilities.

QUESTIONS TO CONSIDER:

— *What is your bottom line in terms of what you would not want to give up from your own organisation, or take on from the other?*

— *Where might you be able to compromise? Where is compromise not possible?*

4.8

Clear plans for the merger process and beyond

Once a decision to merge has been reached, organisations can benefit from a clear plan and timescale for key aspects of the process, including:

- strategic planning
- decision making on trustee and staff positions
- melding organisational systems.

Delegating work on specific aspects of merger to members of a working group can help share the load and ensure buy-in beyond the senior staff team and trustees. Building in an evaluation of the merger process can also be useful as a way of checking whether initial goals have been achieved. It can also provide a focal point for reflection post-merger.

QUESTIONS TO CONSIDER:

— *How will the change process be managed?*

— *Do you need a merger working group?*

— *How will responsibility for the process be shared between the merging organisations?*

4.9

Resources

The cost of merger – in terms of staff time, money and human resources – should not be underestimated. The cost of developing a new organisational infrastructure, identity and publicity materials is likely to be substantial. Our research also suggests that a merged organisation will struggle to make savings or increase its voluntary income in the immediate short-term. Proposed organisational structures should therefore be discussed and costed at an early point in the merger process.

QUESTIONS TO CONSIDER:

— *What are the yearly financial implications of the merger for the next five to ten years?*

— *Can the costs of merger be recovered in the medium term?*

— *Is any external involvement needed to support the process?*

4.10

Sensitivity to different organisational cultures

Research on mergers by a range of authors points to difficulties in reconciling organisational cultures – for example, styles of decision making and ways in which staff relate to users and volunteers. This is a point to bear in mind, as it has implications for the successful integration of staff from the merging organisations.

Some organisations that have successfully implemented mergers have gone through a joint process, prior to merger, of describing and sharing the cultures of their respective organisations in order to discuss how their organisational cultures might fit together.

QUESTIONS TO CONSIDER:

— *What are the differences and similarities between the merger partners' organisational cultures?*

— *Can these be reconciled? If so, how?*

— *What is the vision for the organisational culture of the new merged organisation?*

— *How will staff and trustees be helped to develop a new organisational culture?*

At the beginning of this document we stressed that thinking about merger is one of the most challenging steps a voluntary organisation can take. In many cases merger may not prove to be the most appropriate course of action: it is therefore vital to have time to prepare and reflect at the early stages of considering a merger to ensure that organisations do not enter into arrangements which may not be in the best interests of staff, trustees and beneficiaries.

We hope our first-hand knowledge, experience and insight of mergers, as presented in this document, helps voluntary organisations to:

- clarify their reasons for considering merger and their aspirations for the future
- be clear about the issues on which they may wish to negotiate
- avoid unnecessary expense and upheaval by embarking on a merger process without first testing out individual and organisational expectations of what it might achieve
- structure their thinking on merger and all it entails.

Further resources

Charity Commission

www.charity-commission.gov.uk

The Charity Commission provides technical information about merger, specifically the process of due diligence and the legal steps you would need to take if you decide to go ahead with merger.

Collaborative working and mergers: An introduction (2009)
www.charity-commission.gov.uk/Library/guidance/cc34text.pdf

Making mergers work: Helping you succeed (2009)
www.charity-commission.gov.uk/Library/mergetoolkit.pdf

Choosing to collaborate: Helping you succeed (2009)
www.charity-commission.gov.uk/Library/colltoolkit.pdf

IVAR

www.ivar.org.uk

Getting ready for collaboration: Learning from experience (2010)
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Appendix: A collaboration spectrum

INFORMAL ALLIANCE

— *an arrangement that is essentially informal, based on good relationships and understandings that may be written but are non-contractual.*

Pros:

- maximum flexibility
- cheap to establish and operate
- preserves complete autonomy of parties.

Cons:

- could prove ephemeral because it depends on relationships
- becomes less suitable the more resources are required
- unlikely to attract third-party funding
- informality risks ambiguity and uncertainty.

CONTRACT-BASED ALLIANCE

— *a relationship that is underpinned by a contract between the parties that sets out objectives, respective roles, cost-sharing and charging arrangements, etc.*

Pros:

- full flexibility at inception and subsequently flexible in terms of alterations and additions if agreed by parties
- relatively cheap to establish and operate
- preserves the autonomy of the parties (other than to comply with the contract)
- relative certainty for the duration of the contract
- can cope with significant operations such as staff employment, provision or sharing of services, etc.

Cons:

- less suitable as a long-term or permanent arrangement
- scope for significant cost savings through shared services is limited by the term of the contract.

JOINT VENTURE

— *an arrangement whereby the parties establish a legal entity, which they jointly own and control, for the purpose of undertaking specified roles.*

Pros:

- legal entity brings structural solidity to the relationship between parties, and is therefore less dependent on specific relationships
- preserves the autonomy of parties (except in relation to the areas covered by the joint venture)
- permanence of arrangements increases scope for cost sharing and common service provision
- entity can be used for a wide range of purposes (subject to the agreement of the parties)
- ringfences risk in a structure which is separate to each of the parties.

Cons:

- more costly to establish and maintain
- issues of governance, leadership, separate accounting, branding, roles, etc come into play with any legal entity
- the entity is a new party in the relationship between the 'owners', creating more complexity and some scope for 'playing games'.

GROUP STRUCTURE

— *an identity-preserving form of merger, which comes in many forms – for example, parties may agree to become controlled by a holding entity, which owns or controls the parties (which in turn become operating subsidiaries).*

Pros:

- preserves the identity of the joining parties
- provides substantial scope for sharing all back office services, which can be provided by the holding entity
- can be a 'halfway house' for an eventual full merger.

Cons:

- may be expensive to establish and can create an additional superstructure of running costs
- issues of governance, leadership, accounting, branding, roles, etc are crucial and ultimately determined by the holding entity and not the subsidiaries
- loss of autonomy by the subsidiary.

MERGER

— *the parties merge on whatever basis is agreed – either creating a new entity (with relative equality between the joining parties) or enlarging an existing entity. The latter is more usually referred to as a 'takeover'.*

Pros:

- provides maximum scope for savings and economies of scale as all back office services and any existing overlapping services will be rationalised
- simplifies governance and executive authority with the possibility of maintaining former brands as operating divisions or service labels.

Cons:

- expensive to establish and implementation is likely to be demanding
- can result in a prolonged period of inward focus while the terms of the merger are thrashed out and subsequently implemented
- usually involves some loss of senior executives and board members.

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