Strategy & Governance

Charities Bulletin
Summer 2018

Charity Mergers: It's about planning

The article below appeared in the online edition of Third Sector Magazine last month under my name which I thought may be worth reproducing.

In the May/June edition of Third Sector Magazine, there were 3 articles concerning charity mergers. One regarding the merger of Bowel Cancer UK and Beating Bowel Cancer was positive whilst the other two by Stella Smith (pg19) and Paul Streets (pg65) were considerably less so. Firstly, my cards on the table; I am with Prince William on this; there are too many charities. Every time I read about a high profile new charity set up on the back of someone's tragic circumstances I cringe at the thought of a set of professional fees and another layer of admin, the price of which could be used for direct charitable expenditure with the right existing charity. Again, let me be clear; there will occasionally be a need for new charities but often there is already a charity in existence which with their help and the judicious use of a Restricted Fund can make better use of the money.

Likewise, not all mergers work, and the sector is littered with failures. However, in most cases, the problem was a lack of will and poor implementation and not because the concept was wrong in the first place. Let us consider mergers in the professions or in the case of public or private companies. Yes, these mergers take place in the belief that it will make the merged entity more efficient, effective and more profitable. For profitable read "create more resource for the beneficiaries" and, there is no difference. Yes, such mergers can fail but they fail for the same reasons as charity mergers; poor planning, cultures that are incompatible and lack of clarity of what constitutes success.

In truth, there are very few "equal" mergers and more often a larger entity taking over a small one (although it occasionally happens the other way around). However just as the Directors have a duty to their shareholders and Partners have a duty to their fellow partners, so Trustees have a duty to their beneficiaries. Let us also not forget the employees in this too. Not all mergers mean job losses although some do and when a charity fails, everybody loses.

Economies of scale have their place in the argument, but a so-called larger organisation does not have to lose the personal touch or become more remote. It is all about the planning and what the beneficiaries can gain. Quite often the merged entity can provide more not less because it now has the resources to do so. But above all be clear about the benefits sought and whether they can be realistically achieved.

I am all for co-operation, collaboration, joint ventures et al and these may be the right solution to a problem. The sector is renowned for being quirky and haphazard and let us not lose that but quirky doesn't preclude merger. I know that some Trustees may see this article as the equivalent of Turkeys voting for Christmas. However, let us also remember why we work in the sector in the first place. That is to get things done and to help the people who need our help. So, don't dismiss the idea of merger out of hand and be open-minded about the benefits.

FAQ

FREQUENTLY ASKED QUESTIONS

I often get asked questions about problems that charities face, so I am introducing this new section of my newsletter to help others with the same issues

Q. We are looking to reduce costs by outsourcing some admin functions. Are we doing the right thing?

A. It very much depends on the individual charity, on its size, the volume of transactions, the type of work being outsourced and the location and availability of an outsourced function What I can say is that certain functions lend themselves to being outsourced more than others and, in some functions, there is more of a choice available; the most obvious of which is payroll. Despite the availability of good quality payroll software, payroll administration has many a pitfall and with such areas as SSP and auto-enrollment outsourcing has many advantages.

However, I have also seen some disasters from outsourcing which largely relate to there being a lack of good due diligence on the provider and a lack of clarity in the contract between the Charity and the provider. What you don't want is£30k of salary costs being replaced by £40k of outsourcing costs due to a lack of clarity of expectations. So, whether it's your payroll. accounting function, HR or even your Secretarial, here are some tips: -

- Draw up a specification - Be clear as to what your requirements are in terms of type and frequency of reporting.
- Be prepared to consider more than one supplier for each function. Not all outsourcing providers are good at all aspects of the provision.
- Ask for a draft contract - Make sure the contract meets your specifications.
- What back up do they provide? - Many providers give you a key member of staff who does your work. In their absence who is your point of contact?
- Take up comparable references - One would assume that any referee the supplier puts forward is someone who will speak well of them to make sure the reference point is providing a comparable service both in size and volume.
- Run in parallel for a short period - You wouldn't recruit a member of staff without a period of probation, so you need to test out the provider.
- Finally, do not outsource for the sake it - Sometimes the quality of provider is not out there, or they cannot supply what you want in the way you want it? If that is the case, then savings may need to come from elsewhere. however, also consider whether the demands you are making are strictly necessary. Just because you've always done the task one way does not make it sacrosanct. You never know, changing methods may mean efficiencies can be made.

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More lessons from charity commission investigations

1. The Reb Moishe Foundation - This is another case of trustees making loans or grants without any due diligence. In this instance, a loan was made to a private commercial company which was connected to one of the trustees. No external advice was sought. In fact, it was to a company registered based in Gibraltar which would have made the recovery of the funds very challenging. The loan was for £2million. In the period between the loan being made and 2010, the company made persistent losses. Although interest payments had been made between 2006 and 2008 repayments dried up and the issue was exacerbated by the death of one of the trustees. Subsequently, following the intervention of the Charity Commission in 2015, 6 properties were sold, and the loan was repaid out of the proceeds.
   The trustee clearly had a conflict of interest as he was both a trustee and a director of the company. Neither did he see fit to seek external advice as someone doing due diligence would have pointed out the risks involved. Ultimately the charity received its fund back plus some interest, but it could have gone badly wrong.

2. The Islamic Trust (Maidenhead) - This investigation reported on various governance failings, on which I had commented on previously in these newsletters.
   However, I want to highlight two or three issues that they report on.

- *The accounts were deficient in that they did not comply with the statement of recommended practice (SORP) most notably in that restricted funds were not shown separately, and certain expenditure was categorised as governance costs when in fact they were charitable or support costs.*
- *No records were kept of due diligence carried out in respect of the charity's partners including those who speak at the charities events.*
- *The mandates to the charities main bank account showed that of the signatories to the bank account, only one trustee was current; the other three left in previous years.*
- *No records were kept of the location of the charities collection boxes which were situated in several shops around the Maidenhead area. The charity's own financial controls recommended such records, yet none were kept.*

This investigation arose out of a failure to meet basic rules of filing accounts and annual Returns and when the commission dug deeper failure to obey their own rules became apparent. Even basic controls such as monitoring signatories on bank mandates were not followed up and the fact that their accounts did not comply with the SORP did not speak well for the accountants preparing the annual accounts.

These are basic matters, yet I have often found that changes in the body of trustees do not get reflected on the Charity Commission register or the bank mandates do not get updated. Please make sure you get these fundamentals right!

Other Charity Commission News

The Commission continues to issue guidance and information all the time so here are some highlights and food for thought -

- Did you know that of the 829 cases opened for none compliance in the 9 months to 31st December 2017, 44.5% of them had an income of£500k+?
- In a study published in April, almost 75% of insider frauds at charities were enabled by excessive trust in the individual and a lack of challenge by others in the charity?
- A new welcome pack has been designed for new charity trustees and can be used by existing trustees to refresh knowledge and skills.
- Did you know that there were 1,152 reports of serious safeguarding incidents received by the interim safeguarding taskforce between February 2018 and May 2018, compared to 1,210 during the whole of 2016-17, and 1,580 during 2017-18?
- Did you know that the Charity Commission currently has 50 detailed guidance booklets, and 167 "How To" booklets covering a whole raft of areas from Sorps to Trustees, from acquiring to selling land, from village halls to faith-based charities and from Universities to schools to name but a few? For many charities answers can be found in this booklet but when in doubt engage an expert at the earliest opportunity.

If you are a charity trustee and you and your charity are in need of advice on a strategic or governance matter, please telephone **Elliot Harris** on **07896 894711** or email **elliot@strategyandgovernance.co.uk** for a no obligation conversation.