

## PARTNERSHIPS - TRUSTEE ROLE AND RESPONSIBILITIES

When organisations are considering entering into a more formal partnership arrangement, there are a number of legal and governance issues that need to be considered by trustees.

Whether an organisation is large or small and whether the work developing the partnership is being led by trustees or staff, it is the trustees who ultimately carry the legal responsibility for the charity; therefore, it's their role to ensure any decision taken regarding the organisation is always:

- in the best interests of beneficiaries
- making the best use of charitable resources
- in accordance with their governing documents, charity law and any other relevant legislation

This checklist sets out some of the key questions trustees should ask themselves before entering into any formal partnership arrangements. It is intended as a quick and simple guide to help inform and support decision making by identifying what trustees should consider; what additional information they may need any further action that's required. It's not a substitute for legal advice and we strongly recommended that seek their own independent professional advice prior to entering into any formal partnership arrangements.

### 5 TOP TIPS

1. Be clear that any partnership arrangement you enter into is in the best interests of your charity and your beneficiaries
2. Consider the implications of what working in a partnership means for your organisation; weigh up the benefits against any risks before moving forward
3. The terms of the partnership must be clear to you – what the objectives are, milestones, timeframes, roles and responsibilities etc. – these should be written, agreed and understood before signing any formal agreements
4. Make sure that any decisions you take are within your powers; that they are reasonable and have been well thought through
5. Know your legal obligations as trustees - seek independent legal advice if necessary

## TRUSTEE PARTNERSHIP CHECKLIST

Potential impact upon our organisation	Yes / No	Actions
<p>1. Will this partnership arrangement be in the best interests of our charity and our beneficiaries?</p> <ul style="list-style-type: none"> <li>a. Will it improve the quality, diversity or reach of the support and services available to our beneficiaries?</li> <li>b. Have we consulted our beneficiaries or other stakeholders during this process?</li> <li>c. Does it enable us to share and make best use of ours and others resources?</li> </ul> <p>2. Are we clear about the reasons why we want to enter into this partnership arrangement – do we understand:</p> <ul style="list-style-type: none"> <li>a. What the benefits of such an arrangement are?</li> <li>b. What the risks are?</li> <li>c. What action we need to take to mitigate those risks?</li> <li>d. Will the partnership add value to our organisation’s work that will justify the time, effort and money we will need to invest?</li> </ul> <p>3. Does our decision to enter into this partnership fit in with our long term strategic plan?</p> <ul style="list-style-type: none"> <li>a. If not, have we understood the implications of entering into this partnership at this time?</li> <li>b. Are there any implications to our existing or planned projects/services that must be considered?</li> <li>c. Are there any implications to our staffing structures, terms and conditions of employment etc. that we must consider?</li> <li>d. Do we need to increase/decrease or re-allocate resources to support this work?</li> </ul>		

<p>4. Have we considered the financial advantages and disadvantages of entering into this partnership?</p> <ul style="list-style-type: none"> <li>a. Will the partnership provide us with any cost savings or increase our income in anyway?</li> <li>b. Will it mean greater expenditure for us; a need to re-allocate funds; cut costs elsewhere?</li> <li>c. Have we enough financial resources available to sustain the partnership?</li> <li>d. Have we the staff resources available to support the partnership work?</li> </ul>		
<p><b>Legal implications</b></p>	<p><b>Yes / No</b></p>	<p><b>Actions</b></p>
<p>5. Does our governing document allow us to enter into this partnership agreement?</p> <ul style="list-style-type: none"> <li>a. Does the service/project fit within our charitable objects?</li> <li>b. Is the activity/project/service to be delivered within our area of benefit?</li> <li>c. Is there any restriction within our governing document prohibiting us from entering in to this partnership arrangement?</li> <li>d. Do we need Charity Commission consent to widen our charitable objects, area of benefit or amend our governing document to enable us to enter into this agreement?</li> <li>e. Are there any potential conflicts of interest that need to be managed?</li> </ul> <p>6. Have we identified and considered the wider legal implications of entering into this partnership?</p> <ul style="list-style-type: none"> <li>a. Are there any issues regarding tenancy agreements, leases, insurance cover we need to consider?</li> <li>b. Have we identified and managed any potential employment issues – e.g. TUPE, pension liabilities, terms and conditions of employment etc.?</li> <li>c. Have we considered impact in other relevant legal obligations such as intellectual property rights, compliance with data protection, safeguarding etc.?</li> </ul>		

<b>Partners</b>	<b>Yes / No</b>	<b>Actions</b>
<p>7. Are the potential partner organisations compatible with our own?</p> <ul style="list-style-type: none"> <li>a. Do we share a similar set of values, culture, mission, working conditions etc.?</li> <li>b. Do the organisations complement each other in the partnership?</li> <li>c. Are there any reputational or legal risks to consider in being associated with the proposed partner organisations?</li> </ul> <p>8. Has a basic background and due diligence check been carried out on potential partner organisations?</p> <ul style="list-style-type: none"> <li>a. Web-site check – history of the organisation, who they work with, services on offer etc.?</li> <li>b. Charity Commission – information about who the trustees are, whether accounts and annual returns are filed on time?</li> <li>c. Charity accounts and annual reports – information on financial position, risk management, whether there are any loans or liabilities etc.?</li> </ul>		
<b>Partnership Agreement</b>	<b>Yes / No</b>	<b>Actions</b>
<p>9. Are we clear about the structure of the partnership?</p> <ul style="list-style-type: none"> <li>a. Are we clear on the consortia model/partnership structure chosen and why?</li> <li>b. Have we a process to monitor and evaluate the partnership arrangement?</li> <li>c. Is there an exit and dispute resolution process in the agreement?</li> <li>d. Is it clear about how underperformance or non-delivery of services will be managed?</li> <li>e. Have we an agreement or structure in place to manage communications across organisations?</li> </ul>		

**10. Have we taken independent, professional advice?**

- a. Has independent professional advice been sought? If so – what?
- b. Has that advice been taken into consideration? If not – why?
- c. On the basis of all the information gathered – would it be considered a reasonable decision by the trustees to enter into this partnership agreement?

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