Collaborations and strategic restructuring for Not-for-profits

Working with other organisations to improve performance

Study guide

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Document Information

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Disclaimer

BaxterLawley

4/9 Hampden Road
Nedlands, Western Australia 6009
Ph +61 8 9386 3336
www.baxterlawley.com.au

For enquiries, please contact Penny Knight.

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Introduction[1]

This course aims to provide directors, senior executives and others tasked with leading Not-for-profit (NFP) organisations with a step-by-step framework for determining whether their organisation should be collaborating with another organisation and how that might best be undertaken, or undertaking a major restructure, such as a merger with another organisation.

It is designed with a focus on meeting the needs of leaders of organisations that operate in the human services sector – including disability services, mental health support, aged care, community services, child protection, child care and other services. However, it is also applicable to NFPs operating in most other sectors, including sports, arts, housing and education.

The aim of this course is to give leaders:

1. Insight into the range and types of collaborative strategies and merger options available.
2. A common language to discuss strategic options.
3. A framework for determining which, if any of these, should be explored by your organisation.
4. Examples of tools that can be used to analyse options.

This course does not aim to promote collaborations or strategic restructuring. The needs of each organisation are unique and collaborations or strategic restructuring may or may not be the right strategic choice.

Learning Modules[2]

This course and is presented in six modules. The modules are presented in sequence, but because users have different background knowledge and training needs, it is designed so that you can focus on the sections that are most relevant to you and so that you can choose

[1] Corresponds with Video ‘Introduction -Welcome’

[2] Corresponds with Video ‘Introduction -Questions to consider’

your own path through the materials. It is likely that you will want to re-visit parts of this guide as the material becomes relevant to you.

However, we recommend that all participants start with Module 1, as this guides you through evaluating the key issues impacting your organisation, its overall performance and whether collaborations or strategic restructuring may be the right option. This module lays the foundation for the rest of the guide.

From there, you can choose which module to complete next. To help you work out how to progress, each module begins with a series of challenge questions.

Modules[3]

Module 1: Context and Principles

Module 2: Strategic Planning

Module 3: Language of Collaborations and Strategic Restructuring

Module 4: Collaborations 'Menu'

Module 5: Strategic Restructuring

Module 6: Summary and Next Steps

There is a large body of knowledge on collaborations and strategic restructuring and many books and articles are available on how to get them right. But research shows that directors and senior executives often do not access these resources. Research also shows that many collaborations and strategic restructurings do not achieve the outcomes intended[4].

Why does this happen? There appear to be several factors at play:

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[3] Corresponds with Video 'Introduction -Course overview'

[4] Owen, Greg., Brian Pittman, Laura M. Kelly, and Ron Reed. Success Factors in Nonprofit Mergers. Saint Paul, MN: MAP for Nonprofits, 2012.

- The overall strategic goals of the organisation(s) are not themselves clear.
- The aims and strategic goals of the specific collaboration or strategic restructuring activity—what the participating organisations want out of the process—are not clear.
- Collaborations and particularly strategic restructuring are often infrequent and therefore there is less opportunity for senior executives and directors to develop skills.
- Directors and senior executives, particularly those undergoing their first collaboration or merger, may underestimate the complexity and new skills required and therefore do not access training and support when needed.
- NFPs work within tight budgets, and often have few resources for board and staff training.
- Directors and CEOs can be over reliant on, or overestimate the quality of professional advice received from legal and accounting services.
- Organisations underestimate or lack the resources to fully execute the arrangement and therefore synergies are not achieved.
- The implementation takes longer than expected and delays the date at which the collaboration or strategic restructuring begins to show a return on investment.

One of the main reasons that organisations collaborate or restructure is to improve efficiency - through reduced costs. But studies have also shown that the synergies or cost savings are often not as large as estimated prior to the collaboration or strategic restructuring.[5] [6]

About this course

This course brings together the best of existing knowledge and theory on collaborations and strategic restructuring, rather than repeating all existing information available. The material is presented in a succinct format that is quick and easy to understand. It also provides a body of

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1. [5]La Piana, David. “Merging Wisely.” *Stanford Social Innovation Review* 8, no. 2 (2010): 28-33. https://ssir.org/articles/entry/merging_wisely
2. [6] Curd, David. “NFP Merger – Damned if You Don't and Possibly Damned if You Do.” Better Boards Australasia, February 8, 2016.

resources that users can explore when they need further information and support.

The course comprises of the following elements:

1. Study guide (**this document**);
2. Case studies and vignettes;
3. Online video course; and
4. Collaboration options analysis tool.

Module 1: Context and Principles[7]

Why should you be thinking about collaborations or strategic restructuring?

Building world-class Not-for-profit organisations

Directors, senior executives and other leaders of NFPs work to maximise the effectiveness and efficiency of their organisations and to achieve outcomes for their service users, members and other stakeholders. This includes efficiently deploying their assets and other resources, including cash.

Members, clients and other stakeholders rightfully have expectations of what their organisation should achieve and may reduce support—donations, membership, volunteering—for NFPs that are not performing well.

> Even if the organisation does not aim to be truly 'world class', thinking about what being world-class looks and feels like and discussing this within your teams helps build cohesive leadership.

In the last ten years, stakeholder expectations of the governance and leadership of NFPs have been increasing. This is evidenced by the increased range and depth of the activities undertaken by regulators and advocacy organisations such as the Australian Charities and Not-for-profits Commission (ACNC), the Australian Institute of Company Directors (ACID), the Governance Institute of Australia (Governance Institute), Chartered Accountants Australia and New Zealand (CAANZ), and CPA Australia (CPAA), all of which have published best practice guides for NFPs and charities, and are actively involved in supporting the development of board and management skills.

The operating environments of NFPs are rapidly changing [8]

Many NFPs in Australia also operate in sectors which are undergoing major change. Over the last 30 years, governments have been

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[7] Corresponds with Video 'Context and Principles -What's happening in the Not-for-Profit Sector'

[8] Corresponds with Video 'Context and Principles -Changes in the operating environment'

increasingly contracting out the provision of services to NFPs, (particularly human services), and governments are now by far the dominant source of income for many NFPs. For NFPs operating in aged care, disability services, mental health and child protection, the implementation of person centred funding requires a complete strategic restructuring of their business models.[9] [10]

These changes bring major opportunities and challenges which have never been previously faced, requiring Boards and CEOs to rethink their assumptions and to develop innovative solutions to new problems.

These changes are also impacting relationships between NFPs and their clients, and between funders and NFPs, within the NFP sector itself and between NFPs and donors. Organisations that were collaborating may now find themselves to be competitors, while other NFPs are seeing new opportunities to collaborate. There are also some that will have to close or merge. Some NFPs are finding that contracts from governments explicitly require organisations to collaborate to achieve outcomes.[11]

Being highly agile and effective in working with other organisations is now an essential skill for Boards and CEOs.

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[9] For instance, see: Alford, J, and J. O'Flynn, (2012), *Rethinking Public Service Delivery: Managing with External Providers*, Palgrave, London; Butcher, J. R. and D. J. Gilchrist, (2016), *The Third Sector Solution: Delivering Public Policy in Collaboration with Not-for-profits and Business,* Australian National University Press, Canberra; and Knight, P. A. and D. J. Gilchrist, (2015), *2014 Evaluation of the Sustainable Funding and Contracting with the Not-for-profit Sector Initiatives and Associated Procurement Reforms*, Government of Western Australia, Perth.

[10] Mills, Katie, Orozco M and Botero B. Why Non-for-profit Mergers Continue to Lag. Stanford Social Innovation Review, Spring 2014.

[11] For instance, see: Gilchrist, D. J., (2016), "Partnerships between Government and the Third Sector at a Sub-National Level: Experience of an Australian Sub- National Government", in Butcher, J. R. and D. J. Gilchrist (eds), *The Three Sector Solution: Delivering Public Policy in Collaboration with Not-for-profits and Business*, Australian University Press, Canberra.

Boards and senior executives have an obligation to maximise returns for today's and tomorrow's beneficiaries

Directors, with support from the CEO, have ultimate responsibility for the success or failure of their organisation. Fundamentally, this is about maximising the return for beneficiaries from the resources owned, accessed and/or controlled by the NFP. Good boards and CEOs keep this at the top of their minds always, and use effective business practices to achieve good performance. They are also fully aware that they are the custodians of the assets of the NFP, and that if another organisation could achieve more for their beneficiaries, then the ethical course of action would be to transfer those assets to that organisation and close.

What about mission?

The use of modern business practices to run NFPs is a means to achieve the mission, not an alternative way of operating. All organisations, including mission-based NFPs must deliver the right services to the right people at the right time, for the lowest cost.

Like their For-profit equivalents, mission-based organisations must also take the right level of risk to ensure that the organisation is and will continue to achieve its purpose. Taking no risks or showing no innovation will nearly always stifle an organisation. Indeed, in an environment of rapid change, there is risk in not updating the organisation to suit the operating environment.

In considering collaboration or major restructures, directors should focus on the prospects such arrangements are likely to have for the achievement of mission—the end game for NFPs and which is likely to be different for different NFPs.

Key questions for directors and senior executives

- Did your organisation maximise its return for its beneficiaries today? What about over the last month? And what about over the last year?
- How do you know?
- Will your organisation be providing excellent results for future beneficiaries? How will you know what they need and want?

- Is another organisation or leadership team better able to provide for your beneficiaries?

Boards and senior executives also need to think about the needs of future beneficiaries, and be aware that their needs may be quite different to those served today. This requires taking a long-term perspective. For example, if your organisation serves children, your future beneficiaries may not yet be born!

What is happening out there now?[12]

Research undertaken by the Australian Institute of Company Directors and similar studies undertaken by Curtin University and National Disability Services (NDS) show that about 70% of NFPs collaborate to advocate for their sector, about half have agreements with other providers to refer or provide services to each other's clients, 43% sub-contract the provision of some services or products to another organisation, 27% share resources, 21% are involved in group purchasing (including training) and 12% share their back office support.[13]

A third of all directors of NFPs reported that their board had discussed mergers in the last year and 8% reported that their board had undertaken or was currently undertaking a merger. Among disability services organisations in particular, a similar proportion were merging, but 41% reported that they had discussed merger.[14]

It is clear that many Australian NFPs are actively collaborating and strategic restructuring. Many of the activities that are covered in this course are being used widely.

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[12] Corresponds with Video 'Context and Principles -What's happening in Disability Services'

[13], For instance, see: Knight PA, Australian Institute of Company Directors NFP Governance and Performance Study 2016 and Gilchrist, D. J. and P. A. Knight, (2017), Results: Disability Markets Survey 2016, A Report for National Disability Services, Canberra.

Defining Principles: Laying the foundations for good decisions

There is no single formula or checklist that we or others can provide that will ensure that all your collaboration or strategic restructuring activities are effective. Every situation is different, and two almost identical organisations may get a different result due to differences in their history, governance, operating environment and many other factors.

Importantly, it is also necessary to remember that a decision by a NFP organisation to undertake a major collaboration or strategic restructuring is not made by an individual, but by a group or team of individuals. Each member of the team has different experiences and skills, and each may have a different opinion about what is in the best interests of the organisation and its beneficiaries, in the context of its mission. It is therefore very useful for teams to identify and agree on their principles first, as this facilitates good and timely decisions by creating a framework for decision making. This is also important because NFPs can have long histories, emotional connections with stakeholders and political and other contexts that need to be considered but it may be inappropriate for them to drive decision making. Sometimes, it is better to develop a decision framework prior to actually examining a “live” possibility.

Often, when teams cannot come to a decision, it is because they have not addressed differences at this fundamental level.

We offer five key principles for your leadership team to consider and we suggest these are discussed by your leadership team. They can then be used as a framework for examining all the various options for your organisation.

Principle 1: Agreeing how good you want to be[15]

This is the first and most critical decision to make. We often hear leadership teams discuss being ‘the best’ or ‘world class’, but what do we really mean by this? The best at what? How do we know if we are the best? Or are we aiming to be as good as the alternatives, or just

[15] Corresponds with Video ‘Principles of Collaborations -Principle 1: Commitment to being THE BEST’

good enough? How do we know where we stand relative to the alternatives or best practice?

These are critical questions for leadership teams to discuss and agree on, as they will drive expectations – both explicitly and implicitly.

Many leadership teams aim for their organisation to be similar to or as good as similar organisations. Others might want to be 'world class', or offer best practice in the services that they deliver, but not have the resources to achieve this. There may be some NFPs that are service organisations, that exist only because they serve another organisation.

For the purposes of this course, we assume that your leadership team wants to be 'world class'. What we mean by this is that you aim to deliver the best services you can, to the people you aim to serve, with the resources that you have available. This does not necessarily mean that you provide the 'world's best practice', as this may require more resources than you have available. But that does not mean that your organisation is not essential. Many organisations achieve a great deal by providing some services to some people.

However, it does mean that your leadership team explicitly rejects being complacent or mediocre. There is an onus on leaders to understand service quality and efficiency, and to ensure that each person understands and agrees with what 'best' looks like for your organisation.

Principle 2: Collaborations and strategic restructuring are a means to an end, not an end in themselves[16]

In the last five to ten years there has been a great deal of discussion about the need for NFPs to engage more in collaborations and to merge more, including specific encouragement from nearly all state and commonwealth government agencies.[17] Commentators

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[16] Corresponds with Video 'Principles of Collaborations -Principle 2: Means to an End'

[17] For example, see: Productivity Commission 2010, *Contribution of the Not-for-Profit Sector*, Research Report, Canberra

frequently make statements that there are ‘too many’ NFPs, or that the market for services is inefficient.

Whether you agree with this argument or not, it is clear that collaborations and strategic restructuring activities are not always successful. They should only be pursued if they help your organisation to achieve its strategic goals and improve outcomes for beneficiaries, not due to pressure from external stakeholders or industry commentary.

Principle 3: Understanding that collaboration or strategic restructuring involves trading off autonomy for other benefits[18]

When undertaking a collaboration and many strategic restructuring activities, organisations are trading-off their autonomy for some other gain. Even the simplest forms of collaboration involve having to share control of decision-making and/or taking on additional risks.

It can be useful to think of collaborations on a spectrum, with simple, ad hoc events on one end, and more complex activities, including merger on the other. As you move along this spectrum, the level of autonomy given up usually increases. Understanding this can assist in preparing you for the challenges that you and your partner organisation will experience throughout the process.

It is good practice to compare collaborations and other strategic choices with undertaking actions on your own.

Principle 4: Collaborations and strategic restructuring are expensive and risky[19]

As mentioned, it is clear from the research that many collaboration and strategic restructuring activities do not achieve the expected benefits, or take longer to achieve benefits than expected. This principle is not intended to discourage leaders from pursuing these activities, but to encourage the full and impartial evaluation of the costs and benefits in advance. These costs include the evident out-of-pocket expenses, as well as the use of resources that could be

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[18] Corresponds with Video ‘Principles of Collaborations -Principle 3: Exchanging Autonomy for other Benefits’

[19] Corresponds with Video ‘Principles of Collaborations -Principle 4: Expensive and Risky’

otherwise applied, depreciation, staff and management time and possibly the board's time. There are also opportunity costs from not pursuing other strategic choices.

In addition to financial, service and client risks, there are other risks, including damage to your reputation or brand if the reputation of your partner organisation is tarnished.

Principle 5: Measurement of costs and returns can be difficult, but it is essential[20]

If we are to assess the risks and returns of collaborations and strategic restructuring we need to be able to measure them. In some cases, measuring investment and return is relatively easy using standard accounting methods. However, as profit is not the driving motivation, measuring return on investment for NFPs can be very complex.[21]

If for instance, the aim of your organisation is to reduce homelessness or provide support for people with complex disabilities, measuring the effectiveness of current operations is difficult, let alone attempting to measure the impact of new services. For some services, attributing outcomes to individual activities that may be part of a larger service is next to impossible. For others, it may take years or even decades before significant change can be measured.

Nonetheless, the practice of setting strategic goals and evaluating performance as best as possible is still beneficial to optimising performance and efficiency. Organisations need to know if they are achieving the performance strategic goals defined under Principle 1. Building appropriate performance measurement into the assessment of collaboration or strategic restructuring activities is essential, even when it is difficult.

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[20] Corresponds with Video 'Principles of Collaborations -Principle 5: Cost and Returns Measurement'

[21] For instance, see: Gilchrist, D. J., and P. A. Knight, (2017(b)), *Outcomes Research into Practice: Working Paper No. 2*, A Report to Grant Thornton Australia.

Application of principles[22]

How these principles are applied in your organisation will vary based on its size, activities, the industry in which it operates and its history. For example, if you are leading a small organisation, it is unlikely that you will invest tens of thousands of dollars in developing measures to assess your activities.

The aim of providing principles is to give you a framework that you can discuss with your leadership team, and adjust and apply to any organisation.

[22] Corresponds with Video ‘Principles of Collaborations -5 Principle Summary’

Module 2: Strategic Planning[23]

Collaborations, mergers and other forms of strategic restructuring are a popular topic of conversation across the NFP sector in Australia and internationally. Governments and other bodies have been encouraging NFPs to increase their level of collaboration and to merge as a means of achieving improvement in sector efficiency and effectiveness.

However, collaborations and strategic restructuring are not 'business as usual' for most organisations. They are often complex, time consuming, resource intensive and involve considerable risk. As such, they are not the only or best solution for the challenges faced by NFPs. It is important for leaders to evaluate collaborations and strategic restructuring as one of several options to achieve strategic goals. There are many other options available, such as service specialisation, organic growth and internal efficiency improvements.

> One of the factors critical to the success of collaborations and strategic restructuring is that the participating organisations can clearly define their own strategic goals and how the collaboration or merger will help them achieve those.

Are you ready to consider collaborations or strategic restructuring?

> *Fire, aim, ready!*

To determine if a collaboration or strategic restructuring is the right choice for your organisation, it is necessary to ensure your organisation is clear about its strategic goals and has a well-defined strategy for achieving them. It is also important to identify the resources required to successfully implement a collaboration or merger and ensure that these are available.

Therefore, the first task is to objectively evaluate the quality of your current strategic plan. If it is out-of-date or incomplete it is essential that the strategy is finalised before attempting the complex tasks involved in collaborations and strategic restructuring.

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[23] Corresponds with Video 'Strategic Planning – Introduction to Strategic Planning'

How good is your current strategic plan?

1. What is the main purpose, mission and vision of this organisation?
2. Who are this organisation’s primary beneficiaries and/or clients?
3. What are their needs?
4. What services or products does this organisation provide that fulfils the needs of beneficiaries/clients? How well are those needs being filled?
5. How efficient and productive is this organisation?
6. What is happening in the operating environment that may affect demand or supply of our services?
7. Who are our stakeholders and what are their expectations?
8. What are our highest priorities over the next year? And the next three years?
9. What are we going to do to meet these priorities?
10. Where do you think this organisation will be ten years from now?
11. What kind of collaborative arrangements and with whom would help us achieve our strategic goals better or sooner?
12. Would selling or acquiring services or merging with another organisation help us achieve more?

If the questions above were asked of the directors and senior management team would they give the same answers?

If these questions were asked of mangers and front-line workers, would they give the same answers?

Should you read this section?

If you are unsure about the answers to the questions above or think that other people within the organisation would give different answers, then it is important to read this section.

Are you ready for this section?

The course introduction provides context for this section. It is recommended that you read the introduction before progressing to this Module.

Aims and learning objectives

The aims and learning objectives of this module are to understand:

- The benefits of strategic planning.
- Why the process of planning is critical to the success of collaborations and strategic restructuring.
- The key steps for good strategic planning.
- Which, if any, elements of your strategic planning needs improvement.
- What you can do to encourage good planning in your organisation.

This section also provides directions to useful resources for strategic planning.

Key messages

1. The aim of strategic planning is to create a common vision and purpose in the minds of the board, management and staff to ensure all understand the overall strategic goal, tasks, and their role in implementation. It is not about producing a document per se.
2. The quality of the strategic plan document may or may not reflect the quality of the strategic plan but the quality of the development process is likely to impact the quality of the strategic plan and the activities that emanate from it.
3. Strategic planning takes time and resources and it is important to ensure proper investment. Skipping a step or executing it poorly can result in the whole plan be ineffective.
4. Successful implementation of the strategic plan requires good leadership and governance.
5. Having clear strategic goals and strategies is essential to the success of any collaboration or merger activity.
6. Strategic plans must be realistic and costed, and translated into operational plans.
7. It is important not to assume that all members of the planning team have experience with the process and outcomes of good strategic planning. Their experience may be limited to what the organisation has done in the past, which may or may not be what it needs for the future. The materials in this course provide a basic overview, but if more is needed, organise for your team to have refresher training before attempting collaborative planning.

What is strategic planning and why should we do it?[24]

Strategic planning is the process used to decide the organisation's overall strategic goals and activities. One of the outputs from the strategic planning process is a strategic plan, but production of the document itself is not the objective.

The aim of strategic planning is to create a clear and common vision of the organisation's strategic goals and what it will do to achieve these. That is, it is about building a shared understanding in the minds of leaders and staff about the future of the organisation.

> *"In preparing for battle, I have always found that plans are worthless but planning is everything."*
> Dwight D Eisenhower

By creating this common vision, leaders ensure that everyone is working in concert and maximising the use of the organisation's resources to achieve its strategic goals. A good strategy is motivating and exciting, it enables everyone to use their skills and challenges them to grow. It highlights the need for effective teamwork by demonstrating that a single person cannot achieve its strategic goals alone.

Good strategies also bring harmony and reduce stress in an organisation. They clarify, focus and define what success looks like and the role that each person has in achieving that success.

In most cases, the strategy is first clearly defined among the leadership team, and then communicated to middle management and front-line workers. Managers and front-line workers play a key role in helping the leadership team to determine strategy by providing information and opinions in the planning process.

[24] Corresponds with Video 'Strategic Planning – What is good strategic Planning?'

A strategic plan is a document or set of documents that define the overall purpose or strategic goals of an organisation and the activities it plans to undertake to achieve those strategic goals. However, the quality of an organisation's strategic planning cannot be determined by looking at the document alone.

When done well, staff at all levels can not only define the key elements of the strategy, they are able to predict each other's decisions. This is empowering and fundamental to service quality. For example, a front-line worker faced with a client problem can make a decision that they know is very likely to be supported by their manager, their manager's manager, the CEO and the board.

Also, when strategies are clear, staff better understand the decisions of the board and CEO. Even when they do not like the decision, they better understand its intent and are more likely to support it.

The process of strategic planning is well established and it is important to follow all the steps.[25]

There are many different strategic planning approaches promoted by consultants and others, but essentially, they all follow a similar approach. In fact, the process is so well established it is possible to access planning templates from the internet.

Despite this, organisations often try to shortcut this process, thinking that the effort involved is not necessary for achieving its outcomes. This is usually a mistake. Investing time and resources in good strategic planning at a level appropriate to your organisation will likely achieve significant returns, either in reduced costs or improved organisational performance.

One of the major challenges for NFPs is that directors are volunteers, and may not expect to have to allocate the time required to participate in a strategic planning process. If this is the case, it is the role of the chair and rest of the board to clearly define this expectation for new and existing directors and ask for their commitment to the process. For the process to be effective, it must conclude with all key participants agreeing on the strategic goals and on the way forward.

[25] Corresponds with Video 'Strategic Planning – Outcomes and Process of strategic Planning'

The absence of a single director or senior executive, or an attitude of non-commitment, undermines the outcome.

It is also important for all participants to understand what constitutes good strategic planning, so everyone knows what they are there to do and build together. Although the process is well known, it is not always well applied. It is best not to assume that the board and leadership team are familiar with good planning (even when they are experienced leaders). If possible, before starting the process, provide examples and descriptions.

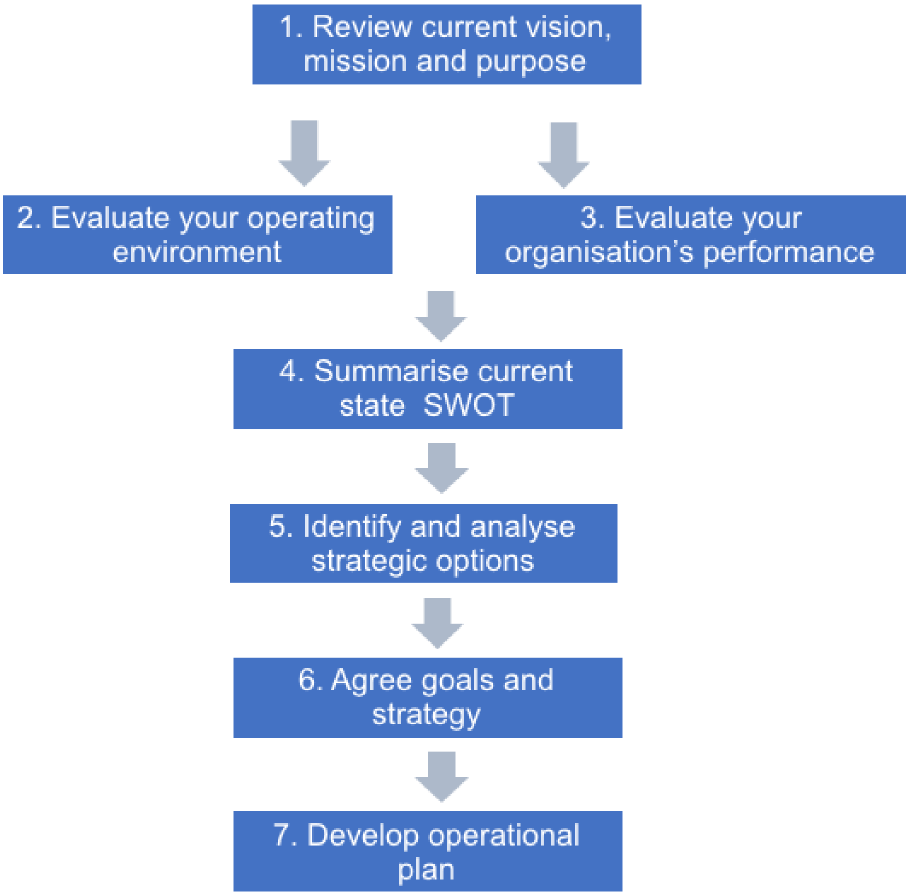
Steps to achieving a good strategic plan

The main steps in the strategic planning process are illustrated in Figure 1.

How these steps are taken may be different for each organisation, but to achieve a good outcome, it is important that all steps are undertaken. Larger organisations may have the resources to appoint a business analyst or consultant to support the research and evaluation necessary to develop a robust and objective plan to facilitate the planning process. External independent advisors often bring a sound knowledge of the standards of good planning, objectivity and new ideas to the planning process.

Smaller organisations will generally have a smaller ‘footprint’, and the distance between front line workers and the board is often shorter (or non-existent). In this case, the board and senior executives will know their operating environment and service users well. They will likely have a good understanding of the costs and returns of their service delivery. Smaller organisations may therefore not need to undertake formal research and evaluation, but the process and discipline of strategic planning provides an essential framework for the leadership team to step back from the day-to-day delivery of services and think objectively about the organisation.

Figure 1 Strategic Planning Process



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Step 1: Review the current vision, mission and purpose[26]

This step can be quite short or it can be quite complex and difficult. It involves reviewing the organisation's vision, mission and purpose and clearly defining why and for whom your organisation exists. The constitution or other governing documents are a starting point, but it is possible that these may not reflect your current or intended purpose and beneficiary group.

It is critical that this step is completed fully, as any slight misunderstanding or disagreement on the answers to these key questions creates major risks to the effective implementation of strategy and to the efficiency of your organisation. It may be

[26] Corresponds with Video 'Strategic Planning – Step 1: Renew Vision, Mission and Purpose'

necessary to create a draft set of statements to initiate the strategy process and then review and agree on these after the strategic options have been further developed.

The key questions to answer are:

- Why do we exist?

  a. Who do we serve? This needs to be determined precisely with regard to demographic characteristics, including age, gender, location and other factors. In addition to identifying the primary beneficiaries, other secondary beneficiary groups need to be identified.
  b. What needs do they have? Again, precision is important.
  c. Which of the needs of our beneficiary group will we meet and why?

- How will we deliver our service(s)? At this point, this is about your core values and culture, not the model of service delivery. For example, faith-based organisations may include statements that they will deliver services consistent with the principles of their faith. Human services organisations may make statements regarding their values, e.g. 'we believe that every human life is of equal value and we deliver services with respect for the rights of the individual regardless of race, age and gender'. Arts organisations may state that they are focused on things such as 'innovative, leading edge, or emerging artists'.

When determining your target beneficiaries, it is important to be very precise. It helps to think about the potential conflicts that may arise, particularly for frontline staff. For example, who is the beneficiary of disability, mental health or education services for children? Is it the child, the family, the broader community or all of these? If you have defined your beneficiary group as children and families and your staff and the parents of a child disagree about what is in the child's best interests, how would you resolve this difference? Should staff advocate for the child or accept the wishes of the family?

In answering these questions, it can also be very helpful to define what your organisation will not do. That is, who it does not serve, which services will it not provide and which values will it not accept.

This stage ensures focus and precision in the development of the strategic plan. It also provides the boundaries for Step 2: Evaluate the organisation's operating environment.

If your team is uncertain about the beneficiaries and services, the scope for reviewing the operating environment should be extended into adjacent sectors. For example, if your organisation provides disability services, it may be relevant to examine aged care, mental health, child protection or other human services sectors.

If you find that your constitution is out of date, then this should be addressed in Step 6: Agree strategic goals and strategy.

Step 2: Evaluate the organisation's operating environment[27]

This is an essential but often under-done step in strategic planning. To optimise the performance of your organisation it is necessary to have a detailed understanding of its operating environment now and the environment in the next five to ten years – or longer. The scale of this evaluation and that undertaken in Step 3: Evaluate your organisation's current performance, will depend on the size of the organisation and its vision, mission and purpose.

[27] Corresponds with Video 'Strategic Planning – Step 2: Evaluate Operating Environment'

There are a number of tools available to assist the structuring of this evaluation, such as the Ansoff Matrix shown in Figure 2.

Figure 2 The Ansoff Matrix

First, it is important to consider the boundaries of your organisation's current and potential operating environment to ensure that all opportunities that may be available are explored, and all the threats are identified. For example, the research should consider the potential for growth into new geographical areas, new client types and new service types.

This means looking at geographies, clients and services adjacent to the ones currently being served and not being restricted to existing markets (See the Ansoff Matrix).

It is essential to then quantify the size of the current and potential client demand. To make informed trade-offs, you need to know how many people may access your service, which services they most need and the sources of income for service provision. For some beneficiary groups, services may not be funded at a level that enables cost recovery, and therefore finding other sources of income (including using profits from other service areas) is essential.

Another useful tool is the PESTEL analysis.[28] This analysis involves examining the impact on your clients and their needs, as well as your business model, in light of changes in the Political (P), Economic (E),

[28] See for example www.professionalacademy.com/blogs-and-advice/marketing-theories---pestel-analysis.

Social (S), Technological (T), Environmental (E) and Legal (L) environment. For example, technological shifts may fundamentally change the efficiency and effectiveness of your current business model and create new threats and opportunities. Changes to the legal and regulatory environment may have a significant impact on your future compliance costs and your ability to deliver services at sustainable prices. Client expectations also change over time. Services that have been acceptable in the past, such as shared accommodation, may no longer be competitive in the future.

A review of the operating environment should also include analysis of current and potential competitors and their strengths and weaknesses; as well as the intentions and opinions of other stakeholders, such a funders, donors, unions and suppliers.

Step 3: Evaluate your organisation's current performance[29]

This step involves undertaking a thorough analysis of the current efficiency and effectiveness of the organisation. If your organisation has a detailed set of Key Performance Indicators (KPIs), then these can be a starting point, but this is unlikely to be enough. You are likely to also need a detailed analysis of financial performance to examine the source and application of funds and review changes over time.

Depending on the organisation, it may be appropriate to compare service types, client types, locations or divisions to identify high and low performing operations over time. The internal review should include analysis of client and quality data — including client attraction, retention and loss; service feedback and outcomes; and productivity. Analysis of this and financial data by service type, client types, locations or divisions help to identify areas which the organisation is profitable and efficient in, and areas which it is not.

There are a number of frameworks that can be used to guide performance evaluation, including the McKinsey 7S Model.[30] In choosing a framework or undertaking an analysis, be aware that evaluators usually take one of several alternative perspectives on an organisation. This will influence both the review and the outcome.

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[29] Corresponds with Video 'Strategic Planning – Step 3: Evaluate organisational performance'

[30] See https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/enduring-ideas-the-7-s-framework

For example, models that focus on human resource elements may place more attention on the organisation's structure, work teams, staff profile and communications. Financial analysis will focus on financial performance, including factors such as the costs and returns for each business area, profit per unit and efficiencies to be gained through scale or outsourcing. Those reviewing the organisation through a service or marketing lens will focus on client needs, service design, competition, differentiation and quality.

It is important to review the whole organisation, at least as a first step, to ensure that strengths and weaknesses are identified across all areas. A common mistake is the development of strategic plans that miss key issues, such as declining service profitability, new competition or problems with staffing and culture. No matter how well other aspects of the organisation are reviewed and planned, if some of these Critical Success Factors (CSFs) are missed, the evaluation and strategic plan will be incomplete, and will therefore have more inherent risk.

Step 4: Summary SWOT analysis[31]

The SWOT analysis is a method to identify the key Strengths (S), Weaknesses (W), opportunities (O) and threats (T) facing the organisation.[32] It is a tried and tested tool for summarising internal and external evaluations, identifying the most critical issues affecting the organisation and communicating these to the board, senior executive and leadership team. It can also be used to prompt discussion with staff and external stakeholders, facilitating the collection of their views on the organisation.

It is useful to bring the board and the leadership team together at this point and review the findings to date. This will help ensure that they have a shared understanding of the key issues impacting the organisation's operating environment, its current effectiveness and its likely future performance.

[31] Corresponds with Video 'Strategic Planning – Step 4: Current State (SWOT)'

[32] See for example https://en.wikipedia.org/wiki/SWOT_analysis

Step 5: Identify and analyse strategic options[33]

This stage involves thinking creatively and opportunistically about the directions you can take the organisation to maximise the benefits for the organisation's beneficiaries. It explicitly challenges the leadership team to consider options other than 'more of the same', which may or may not achieve maximum returns.

The leadership team should then identify at least three or four other options to achieve its aims. Each should be examined in sufficient detail to enable appropriate determination of the risks and returns of each. The 'do nothing' option – i.e. business as usual, should be one of these options and this may be the right course of action. However, it is important that the risks and expected returns of this option are also examined.

It can be useful to give the leadership team some time (e.g. a few weeks) to consider the options rather than to expect them to evaluate and choose an option in the same meeting.

Step 6: Agree on strategic goals and strategy[34]

Once the preferred strategy is identified, the strategic goals and strategy need to be defined in detail, costed, timed and presented to the governing body for endorsement. At this point, if necessary, the purpose of the organisation, its vision and its mission should be finalised, along with the definition of its beneficiaries and their needs that will be served.

Often the biggest threat to the implementation of a good strategy is a new 'good idea', or someone's pet idea, that keeps being resurrected. As such, it is good practice to identify the strategic options that will not be considered in the time frame and lay these to rest (unless circumstances change significantly). These 'good ideas' are often presented as 'in addition to' existing initiatives and/or 'cost free'. However, all organisations have limited financial and management capacity. Unless there are excess resources, new ideas should have

[33] Corresponds with Video 'Strategic Planning – Step 5: Identify and analyse your options'

[34] Corresponds with Video 'Strategic Planning – Step 6: Agree on goals and strategy'

to 'compete' with the existing strategy and only be approved if they are more cost effective.

Step 7: Develop the operational plan[35]

Once the board endorses the plan, it should be presented as a draft to at least the senior staff, if not most staff, for their ideas and feedback. This is a key element in the strategic planning process and it should be a genuine exercise in engagement. Staff will be responsible for implementing the plan and if possible, they should be tasked with developing the draft operational plan in their areas of responsibility. This should involve identifying activities, resources, responsibilities and timing. It may also be necessary to identify new KPIs and possibly job descriptions, which staff will want to be involved in. Finally, depending on the size of the organisation, it is important to develop and implement a communications plan, particularly for those that may not have been involved in the development of the strategy or operational plans.

The board and management should monitor the implementation of the strategic and operational plans throughout the year and review the assumptions and overall strategy once a year.

Remember:

1) Good planning takes time and resources. It is important to invest in them well.
2) Plans are developed and applied in complex and changing environments, often with imperfect information.[36] Expect them to be imperfect and to need to update them or at least validate them on a regular basis, usually once a year.
3) New directors, CEOs and members of the leadership team will need to fully understand the evidence that supported the plan and the thought processes that went into building it. The existing leadership team will need to 'sell' it to incoming directors and CEOs, who then need to fully 'buy in' to the strategic goals and plans. When they join, give them both the documented plan and the story behind it so that they can fully

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[35] Corresponds with Video 'Strategic Planning – Step 7: Develop operational plan'

[36] Kenny, G, 2016 Strategic plans are less important than strategic planning, Harvard Business Review, June 2016.

understand the purpose, their role and build their personal motivation to achieve it.

4) Planning requires consensus, so it is important that all participants fully agree on the decisions. If you must take a vote to approve the plan, or detect some uncertainty or resistance, it is important not to move on until this is resolved. Over time, even small differences in opinion can grow into major problems. It is also important to avoid a culture of blame and ‘I told you so’, which can emerge if participants feel that their voice is not heard.

Tips, tricks and shortcuts to better strategic planning[37]

1. Identify what the organisation will do, as well as what it will not do. Clearly ‘parking’ or saying ‘no’ to ideas is important to stop them re-emerging and being a distraction from agreed priorities. If they need to be revisited, ensure that a decision is taken with regard to other priorities and where they now sit relative to new ideas.
2. Avoid the unsupported ‘facilitated workshop’ approach. Bringing the board and/or the leadership together for a planning workshop without having undertaken the evaluation steps is not strategic planning. Workshops are an important part of strategic planning, but cannot replace the collection of robust evidence on the sector and your organisation.
3. Give directors ‘homework’ to present to the board at meetings. For example, ask them to answer some key questions regarding the future of the organisation, or have them complete some of the evaluation, such as by providing their views on competition and future funding issues. This helps engage the board and ensure that they have some ‘skin in the game’.
4. Break up the planning process into two to three sessions, two to four weeks apart. This allows the board to absorb and reflect on the information and ideas presented in each session, and to formulate questions and develop ideas. A board cannot effectively contribute when presented with a strategic plan which is nearly or fully complete. They will ‘check out’ of the process if they are not asked to be engaged.
5. Engage staff in the collection and analysis of evidence about the organisation and the operating environment. Also ask for

[37] Corresponds with Video ‘Strategic Planning -Strategic objectives for collaborations’

their opinions on the overall direction of the organisation. They are the only people who know what is really happening in the field. They are the 'reality checkers', who will have to forecast resource and timing requirements. The staff will be responsible for implementing the plan and, so they need to feel heard, engaged and motivated if they are to implement plans.

6. Ask directors to formally commit to the strategy and its implementation. That is, when it is complete, ask if they believe that this is the best way forward for the organisation and if they will personally stand behind the strategy.
7. Once the strategy is complete, review the board composition and senior management skills. Determine if the range of skills is appropriate to the needs of the organisation. Also review KPIs to ensure that they meet board and management needs to monitor implementation and are precisely targeted and complete. Update job descriptions so they align with the strategy and develop new KPIs from the board down to the frontline.

Module 3: Language of Collaborations and Strategic Restructuring [38]

Is this module for you?

There are specific terms and concepts used to discuss collaboration and merger activities. These are not always used consistently. To get the most from this course, it is important to understand the terms and concepts as they are used in this study guide and in the Australian context.

If you are new to this field, it is strongly recommended that you read through this module before progressing.

Are you ready for this section?

For some people, this will be good starting point for this course. However, it assumes knowledge from Module 1. It is therefore advisable that you to read the introduction and Module 1 prior to working through Module 3.

Learning objectives

The objectives of this module are to:

- Define the key terms and concepts used in describing collaborations and strategic restructuring and how they are implemented.
- Support the development of sector knowledge and practice by building a common language among those involved in collaborations and strategic restructuring.

Key messages

1. Be aware that some terms can be used differently by different people. It is important not to assume everyone involved has a similar understanding. To communicate well with your own

[38] Corresponds with Video ‘Language -Introduction to key terms’

board, management team, staff and external stakeholders, it is recommended that you first clarify everyone's understanding of the terms used.

2. Similarly, many of the activities and concepts used in the NFP and For-profit sectors for collaborations and strategic restructuring are the same, but they can be differently applied. There are some collaboration and merger concepts that are unique to the NFP sector, and it is important to be aware of these differences.
3. Certain terms are defined in legislation and you will need to consult your advisors.

The language of collaborations and strategic restructuring

When travelling to a different country we expect to learn some of the language and customs so that we can communicate well. Similarly, when building a new field of knowledge, it is important to first learn the key terms. Like most languages, in the field of collaborations and strategic restructuring there can be more than one term used to describe the same thing, and people use the language differently.

Key terms and definitions[39]

Disclaimer: These terms are for guidance only and should not be relied on. You will need to obtain legal advice to clarify the meaning of these terms for specific transactions. Additionally, the meanings of terms may also impact actions you may or may not take and may impact the taxation and other regulatory arrangements, including in relation to the way your organisation is incorporated. Remember, the Australian NFP environment is very complex and directors and officers should not be negligent in assessing the particular circumstances that apply to their organisation in the context of their intentions.

Writers nationally and internationally provide alternative definitions for collaborative arrangements and mergers. The following is a compilation of terms from several sources.

[39] Corresponds with Video 'Language -Key terms: 'Participants'

Where regulators such as the ACNC, the Australian Taxation Office (ATO), the Australian Security and Investment Commission (ASIC), and state/territory departments of commerce, consumer affairs or similar, explicitly define these terms, these definitions have been provided in most cases. It should be noted that these organisations

may define activities or concepts differently, and so this list is for guidance only and does not replace legal advice.

Types of collaborations and strategic restructuring [40]

Collaborate: To work jointly on an activity or project

There are many definitions of collaboration available. Generally, Collaborations:

- Involve two or more parties.
- Achieve a benefit for one or more parties.
- Can be singular (once off), ad hoc (now and again, without defined frequency), episodic (e.g. once per year) or continuous.

Collaborations are typically undertaken to achieve one or more of the following aims:

- Improvements in efficiency (cost reduction) and productivity, e.g. group buying, administration, quality control and benchmarking.
- Economies of scale (e.g. sharing training in order to lower per-person costs).
- Greater impact in advocacy activities.
- Improved service design, provision or distribution, e.g. co-delivery, quality assurance and distribution support;
- Improved marketing, including endorsements, referrals and co-branding.
- Improved stakeholder relationships and reputation.
- A larger collective market share or to prevent the loss of market share, e.g. licensing, franchising and cooperatives.

Collaborations are not mutually exclusive. Organisations can have a number of formal and informal collaborative arrangements with more than one organisation at any time.

Outsourcing: To obtain goods or services from an outside supplier

Outsourcing differs from centralising processing in that it usually involves the development of a contract and payment of fees to

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[40] Corresponds with Video 'Key Terms: 'Strategic restructuring'

another organisation or individual to provide those services. It also usually shifts business risk to the contractor.

Organisations can outsource payroll, bookkeeping, accounts, tax compliance, financial reporting and audits to a specialist provider of financial administration services. Outsourcing can be done either onsite or offsite. That is, the functions can be carried out by a third-party contractor at their own location or at the location of the client organisation.

Functions can be outsourced to one provider or a number of providers, depending on the nature of the function. For example, payroll services can be provided by one specialist provider and human resource functions by a different specialist provider.

Collective outsourcing occurs when a group of organisations form a consortium to outsource key functions to reduce costs. For example, often organisations will seek to collaborate in the purchasing of training, payroll or other professional services. By offering the seller of these services a higher number of units or hours per year, the buyer can negotiate a lower cost. Collective outsourcing is similar to collective purchasing; the difference being that collective outsourcing usually involves the purchase of on-going business services rather than individual products or ad hoc services.

Network/affinity group: A formal or informal group of organisations or individuals with a shared goal or interest

Network or affinity groups can be established for a range of purposes and may be on-going or ad hoc. NFPs will often create affinity groups for advocacy purposes, fundraising or for service delivery. Recently, affinity groups have been established as a means to achieve a ‘collective impact’. That is, to tackle complex social problems that cannot be solved by one or two organisations alone. In these cases, those affinity groups can often include government agencies and For-profit organisations.

Joint venture: A formal agreement in which two or more parties agree to undertake specific activities together and/or provide resources to achieve a specific common task or outcome

Joint ventures are similar to affinity groups, but the nature of the agreement is usually defined more formally in a joint venture (JV) agreement which is binding on the organisations. Joint ventures can have many forms, and be short or long-term. In some cases, two or more organisations may simply agree to jointly invest in a project, while in others they may create a new organisation in which each has shares. Joint ventures are most often created when the parties cannot achieve a goal or outcome on their own and/or there are efficiencies or higher returns to be gained through the formation of a joint venture.

Joint ventures can be developed between any type of organisation, including government, NFP and For-profit organisations. They are usually administered as a separate unit to the participating organisations (for instance, in the context of financial reporting, but they are not separately incorporated.

Group buying schemes: Two or more organisations collaborate to purchase goods or services to achieve better or lower supply costs

Group buying is intended to reduce both the price of a product and the staff resources required to ‘shop around’. Examples include group purchasing of insurance, vehicles, fuel, office space, equipment and utilities. Governments and other large organisations may establish group buying arrangements with suppliers to meet their own needs and then offer these to NFP or For-profit organisations. For example, the Government of Western Australia offers NFPs in some sectors to access their vehicle group buying scheme.

Auspicing: To offer patronage, support or protection

Typically, auspicing arrangements are made between a larger, or umbrella, organisation and one or more smaller organisations. The umbrella organisation may provide administrative support, accommodation, management and other support to another organisation for a fee or without charge. There are a number of ways in which auspicing arrangements can be established and these may or may not have a formal governance structure. In many cases, the organisation being supported will retain its own identity and possibly its own management structure, services and governance.

Auspicing is sometimes used when a smaller organisation or individual has received a grant or donation to undertake a particular activity, such as research, or is in a start-up or pilot phase and the time and costs required to establish the administrative back office is not warranted.

Franchising: The granting of the rights to use trademarks, brands or business systems by one organisation (the franchisor) to another organisation (the franchisee) to produce and/or market goods

The Franchise Council of Australia describes franchising as follows:[41]

> *"Franchising is a business relationship in which the franchisor (the owner of the business providing the product or service) assigns to independent people (the franchisees) the right to market and distribute the franchisor's goods or services, and to use the business name for a fixed period of time.*
>
> *"'Franchising' is used to describe a number of business models, the most commonly identified of which is 'business format franchising'. But there are other models which are also dependent on franchise relationships. These include:*
>
> 1. *Manufacturer-Retailer: Where the retailer as franchisee sells the franchisor's product directly to the public, e.g. new motor vehicle dealerships, cleaning services.*
> 2. *Manufacturer-Wholesaler: Where the franchisee under license manufactures and distributes the franchisor's product, e.g. soft drink bottling arrangements.*
> 3. *Wholesaler-Retailer: Where the retailer as franchisee purchases products for retail sale from a franchisor wholesaler. This is frequently a cooperative of the franchisee retailers who have formed a wholesaling company through which they are contractually obliged to purchase, e.g. hardware and automotive product stores.*
> 4. *Retailer-Retailer: Where the franchisor markets a service, or a product, under a common name and standardised system through a network of franchisees. This is the classic business format franchise."*

Each franchise agreement is different, but will typically involve the franchisee paying an upfront fee to buy the franchise and then ongoing fees for services. The ongoing services from the franchisor

[41] www.franchise.org.au/what-is-franchising

often include support for marketing, branding, management, new product development and training.

There are many NFP franchises in operation around the world. This business model represents opportunities for NFPs in Australia, particularly in areas, such as disability and aged care, where compliance and service development costs are high. Franchisees do not always have to present themselves in the market as part of a franchise — they can trade under their own name only or co-brand.

Licensing: A written contract under which the owner of a copyright, know-how, patent, service mark, trademark, or other intellectual property allows a licensee to use, make, or sell copies of the originals

Such agreements usually limit the scope or field of the licensee, and specify whether the license is exclusive or non-exclusive, and whether the licensee will pay royalties or some other consideration to the license owner. While licensing agreements are mainly used in the commercialisation of technology, they are also used by franchisers to promote sales of goods and services.[42]

Cooperative: An autonomous association of persons and/or organisations who voluntarily join to meet common business needs through a jointly owned and democratically controlled corporation in which each member has a formal interest

This arrangement has traditionally been used by new industries to pool capital, advocate for their members, develop economies of scale and reduce competition. They can be distributive (that is, not NFPs or charities) or non-distributive (in which case they can be NFPs and/or charities). They can be complex in terms of their operation and in terms of taxation law. However, charities and NFPs can come together to form such organisations.[43]

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[42] For further information, see: http://www.businessdictionary.com/definition/licensing-agreement.html

[43] For further information, see: https://www.commerce.wa.gov.au/consumer-protection/what-cooperative

Types of strategic restructuring

Sale (part of operation)

The transfer of ownership and control of a part of the organisation's operations to another organisation in exchange for money or other resources. This may include the sale of assets germane to that operation such as property, plant and equipment as well as the transfer of staff.

Acquisition (part of operation)

Acquiring the ownership and control of a part of an organisation's operations in exchange for money or other resources. This may include the sale of property, plant and equipment.

Transfer (part of operation)

The transfer of a part of the operations of one organisation to another organisation without the exchange of money or other resources.

De-merger

One organisation 'spins off' a program or service to stand alone as a new independent organisation.

Merger

A **merger** occurs when two or more organisations are dissolved into one of the original organisations or into a newly created organisation that includes some, or all, of the resources, administrative infrastructure, and programs of the original organisations. Generally, due to the nature of NFP incorporations law, mergers do not result in one corporation owning another.

Acquisition (whole of organisation)

Occurs when one organisation is dissolved (the acquired organisation), with all its activities and resources transferred into the surviving (acquirer) organisation. The selection of this acquisition form of strategic restructuring does not limit the structure, branding, governance, or leadership options of the participating organisations. An acquisition may also involve the formation of a new organisation where one participating organisation has obtained control of the NFP activities or the activities of all the participating organisations; for example, by appointing significantly more of the governing board of the newly formed organisation, and retaining its bylaws and policies.

Organisational governance and stakeholders[44]

Governance

Corporate governance is a broad-ranging term which, among other things, encompasses the rules, relationships, policies, systems and processes whereby authority within an organisation is exercised and maintained. The governance attributes of an organisation are shaped by a variety of factors, both internal' (e.g. constitution, organisational policies) and 'external' (e.g. laws, regulations, community expectations). A board of directors plays a pivotal role in influencing an organisation's governance environment.[45]

Differing activities, risk levels and processes attract differing levels of governance requirements. All governance costs money and time and so all directors need to consider the level of risk being faced and to balance that risk with the level of resources they apply in performing the government role. Logically, the smaller the risk the smaller the resources that would be applied to this area.

Governance specific to collaborations and strategic restructuring

When NFPs consider collaborations of any type, they need to ensure that there are appropriate governance arrangements over the decision-making process, the implementation process and then the ongoing management process. This helps to ensure that all risks are identified and understood, their potential impact and likelihood of occurrence are managed and that the opportunities identified that are

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[44] Corresponds with Video 'Language -Other key terms'

[45] http://aicd.companydirectors.com.au/resources/all-sectors/what-is-corporate-governance.

likely to be achieved out of a collaboration are actually achieved. **Due diligence** relates to the investigative and analytical work undertaken prior to a decision being implemented. Usually, a collaborative process would be agreed in principle between two parties and then due diligence is undertaken. The in-principle agreement is usually required as due diligence is expensive, time consuming and can inhibit the operations of an organisation.

The purpose of due diligence is:

1. To confirm the principles and underpinning assumptions used to make a decision.
2. To identify any undisclosed or unknown risks and opportunities that are inherent in the organisations prospectively collaborating.
3. To test compatibility.
4. To test political, economic, operational and staffing impacts expected and to identify hitherto unknown impacts.
5. Refine, re-work, modify and/or reject models, assumptions and processes assumed or represented by collaboration parties.

Due diligence, then, is an investigation of a business or person prior to signing a contract or implementing a decision. Directors are responsible for establishing the due diligence activities required—not

> You should consider sourcing professional advice in relation to collaborations, regardless of their size and purpose. Advisors, such as accountants and lawyers can often see issues that you have not thought of and can also suggest strategies and processes that may assist in overcoming them. Advice should also be sought from funders and other stakeholders (at the right time) to ensure the plans you have are likely to be supported. Finally, regulators, such as the ACNC, ASIC and others can also be providers of advice in relation to their requirements. Again, you might seek advice form an accountant or lawyer, experienced in the field before seeking to consult other government agencies or stakeholders.
>
> At all times, directors must remember that they have a right to seek advice and, in relation to such regulatory frameworks as the ACNC Governance Standards, they have a responsibility to do so.

all prospective collaborations require the same level of due diligence, there needs to be a cost/benefit calculation made so that the cost in time and money is rewarded by a commensurate reduction in risk—assessing the risk associated with a proposed collaboration and interpreting the results of the due diligence undertaken.

Directors are required to meet their duty of care and the due diligence process is intended to assist them in achieving this, In the context of strategic restructuring, it is the comprehensive appraisal of a business undertaken by a prospective buyer, especially to establish its assets and liabilities and evaluate its commercial potential. This includes in relation to cultural compatibility, trustworthiness of the directors of the other organisation, reputation of the other organisation and the political impacts such a strategic restructuring might have.

General points to consider in relation to directors' responsibilities here include[46]:

1. To have a general: measure of prudence, responsibility, and diligence that is expected from, and ordinarily exercised by, a reasonable and prudent person under the circumstances.
2. To hold a mental attitude of professional scepticism—that is, as a director you expect to see evidence and logic related to information provided and decisions taken.
3. To ensure that, as directors and officers, to act prudently in evaluating associated risks in all transactions.
4. To gather necessary information on actual or potential risks involved in a proposed collaboration.
5. There is a duty of each party to confirm each other's expectations and understandings, and to independently verify the abilities of the other to fulfil the conditions and requirements of the agreement.

Memorandum of Understanding (MOU)

A Memorandum of Understanding (MOU) is a bilateral agreement between two or more organisations describing the intended actions, responsibilities and requirement of the parties. MOUs are usually a

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[46] Read more: http://www.businessdictionary.com/definition/due-diligence.html

non-binding agreement. They may be the first stage in the formation of a formal contract. They are effective, however, because they encourage parties to consider all elements of a proposed collaboration prior to entering the agreement or expending considerable resources in relation to activities such as due diligence.

In the case of a merger, the MOU will discuss the actions and responsibilities of each party to provide information and to take actions to needed to progress the merger. It does not bind the organisations to merge, but creates an environment in which both organisations can proceed and negotiate. It may include specific requirements; for example, that the parties will not engage in merger discussions with other organisations until it is agreed that the current merger will or will not proceed.

Key Agencies and Regulators with a Potential Interest in NFP Collaborations[47]

Australian Taxation Office (ATO)

The ATO is the revenue collection agency of the Commonwealth government. It administers the various taxation legislative arrangements for the Commonwealth and its principal objective is to protect the national revenue. It administers part of the law, together with the ACNC, relevant to taxation and NFPs/Charities. It is important for directors to consider any prospective collaboration—regardless of the type—in terms of whether or not there is a risk to the taxation status of the entity as a result of the arrangements put in place. Such risks include that private rulings and agreement with the ATO may be defunct if a collaboration substantially changes the nature of an organisation’s purpose or operations.

Australian Charities and Not-for-profits Commission (ACNC)

The ACNC is the national regulator of charities in Australia and NFPs must be registered by this body in order to gain charity status. This entity will also potentially impact the ability of a charity to merge or be taken over by another organisation. It uses the Charities Act 2013 as the basis for the administration of its tasks.

Australian Securities and Investments Commission (ASIC)

[47] Corresponds with Video ‘Language – Relevant Australian Entities’

ASIC is Australia's corporate, market and financial services regulator. It regulates some aspects of the law relating to companies limited by guarantee, fund raising and For-profit entities that collaborate with NFPs. Further, it has jurisdiction over the ability of associations incorporated in one jurisdiction being able to trade in other jurisdictions within the commonwealth.

Australian Competition and Consumer Commission (ACCC)

The ACCC is a Commonwealth government agency that is charged with regulating and supervising Australian markets. It does this via its own legislation as well as the Australian Consumer Law (ACL) which is a uniform legislative program that see the same consumer protection laws enacted in each Australian jurisdiction.

Certain types of collaboration and reconstructions can be impacted by the ACL and the regulation and supervision undertaken by the ACCC (or the ACCC's commensurate state/territory-based regulators). This includes in relation to any perceptions or actuality with respect to a reduction in competition. NFPs may need to consider their activities in the context of a collaborative arrangement where competition is limited, where your organisation's activities (or those of your collaborative partners) may be considered to be predatory (that is, generally, your organisation uses its financial and market strength to inhibit the participation of competitors in a market).

Associations

Corporations incorporated under the Associations Incorporation legislation of each state and territory in Australia. These acts are different in each jurisdiction and are usually administered by the state/territory Department of Commerce or similar.

Procuring Government Agencies

Government agencies (Commonwealth and state/territory) are also seen as defector regulators due to the fact that they procure services from NFPs and oversee the operations and, often, the acquittal processes relevant to public accountability.

State/Territory Revenue Agencies

Each state and territory in the Australian federation has a revenue collection and protection agency which has an interest in NFP organisations because they often provide tax, levy and fee exemptions for such organisations. As such, they may impact the ability of a collaboration to continue with exemptions previously provided. This may be especially so where an organisation had the benefit of a private determination or agreement with the agency that may be defunct under a new collaborative arrangement.

Module 4: Collaborations 'Menu'[48]

Introduction

Writers on collaborations and strategic restructuring often like to define them on a spectrum from simple, short-term and informal collaborations for a specific purpose at one end, through to full mergers on the other. While this helps to present a theory, it is not always a useful model when it comes to decision making.

Instead, we have separated collaborations and strategic restructuring into separate modules and present the options within each in the form of a menu. This section presents collaboration options for achieving your plan, assuming your strategic plan is clearly defined.

At this point, it is worth stating again that collaborations and strategic restructuring are only one means to achieving your organisation's strategic goals. They should be evaluated and compared with other options to determine the best course of action.

Generally, collaborations:

- Involve two or more parties.
- Are intended to achieve a benefit for one or more parties.
- Can be ad hoc, episodic, regular or continuous.

Collaborations are often undertaken to achieve one or more of the following aims:

- Improvements in efficiency (cost reduction) and productivity, e.g. group buying, administration, quality control and benchmarking.
- Economies of scale, e.g. sharing of training costs can reduce the costs to individual organisations for overheads and development of materials.
- Greater impact in advocacy activities.
- Improved service design, provision or distribution, e.g. delivery, quality assurance and distribution support.
- Improved marketing, including endorsements, referrals and co-branding.

[48] Corresponds with Video 'Collaborations Menu -Overview'

- Improved stakeholder relationships and reputation.
- A larger collective market share or to prevent the loss of market share, e.g. licensing, franchising and cooperatives.

For the purposes of this training, collaborations include arrangements between organisations that are intended to achieve an outcome other than or in addition to a simple transaction.

Are you ready to read this section?

As just alluded to, it is premature to choose between collaboration and strategic restructuring options unless your organisation has its strategic plan in place — a documented account of where your organisation is headed. However, a strategic plan should be well-informed, so if this material is entirely new information to your organisation — information that might shape your organisation's strategic plan — then you should read on.

Aims and learning objectives

The learning objectives are:

1. To understand the range of collaboration options that are available.
2. To identify the options that are best suited to your organisation's circumstances.
3. To be able to evaluate the financial impact of the option of interest.

Key messages

1. Collaboration options can be strategic or operational, however they are always a means to an end, and the end is something that should be locked down in your organisation's strategic plan.
2. It is not possible to meaningfully assess the financial impact of collaboration options without first obtaining reliable data. There is no way to cheat this step — you must put the work in.

Types of collaborations included

There are many types of collaboration—some of significance to NFPs and some less so. As such, we must focus on the types of collaboration that are most relevant to NFPs. However, readers should be aware that their organisation's particular circumstances may mean that it needs to pursue a form of collaboration that is not touched on here. This is another strong reason for getting appropriate advice prior to embarking on a major collaborative process.

The collaborations explained in this module start with shared activities, such as shared advocacy. These arrangements involve two or more organisations coming together to achieve an outcome for one or more of the organisations.

In this course, we do not include relationships which are in effect buyer/seller relationships. Buyer/seller relationships are defined by the exchange of goods or services for money or other benefits. In many cases these can look like collaborations, and often the seller, buyer or both would seek to structure these as collaborations; but we have not included them here, as they are part of the day-to-day operations of all organisations. Similarly, relationships between other stakeholders, such as funders, donors, volunteers and staff; and the organisation are also not included when they relate to either the purchase or gifting of services or assets.

Guidance Provided

Importantly, we have sought not to reinvent the wheel and have identified a number of collaboration models and tools the review of which we believe would be of value to NFPs contemplating collaborations. These are provided below separated into a section relevant to each. Again, that is not to say these are the only, or even the best, resources for every collaboration. Rather, we believe they are likely to be of value to many NFPs contemplating the activities covered by this course. Again, directors need to consider the relevance and value of these for their organisation and the sourcing of appropriate advice specific to your organisation's situation is critical.

Guidance from the Foundation Centre

The Foundation Centre is "… an innovative NFP that gathers and analyses data, shares it worldwide, and empowers people like you to understand and increase philanthropy's ability to improve the world."[49]

[49] http://foundationcenter.org/about-us

The Foundation Centre suggests the following options, albeit without definition:

1. “Back-office (administrative) consolidation
    a. Through a contract or agreement
    b. Through the creation of a new organisation
2. Joint programming
    a. Involving or building on existing programs/services
    b. Creation of a new program or service
    c. Creation of a new organisation
3. Merger
    a. Fully integrated, including those with some brand independence retained.
    b. Merged governance, management, programs and operations with separate corporate structures
4. Alliance.”

The Foundation Centre also refers to the La Piana[50] material, and a publication from the Collective Impact Forum, ‘What Are the Different Ways to Collaborate?’.[51]

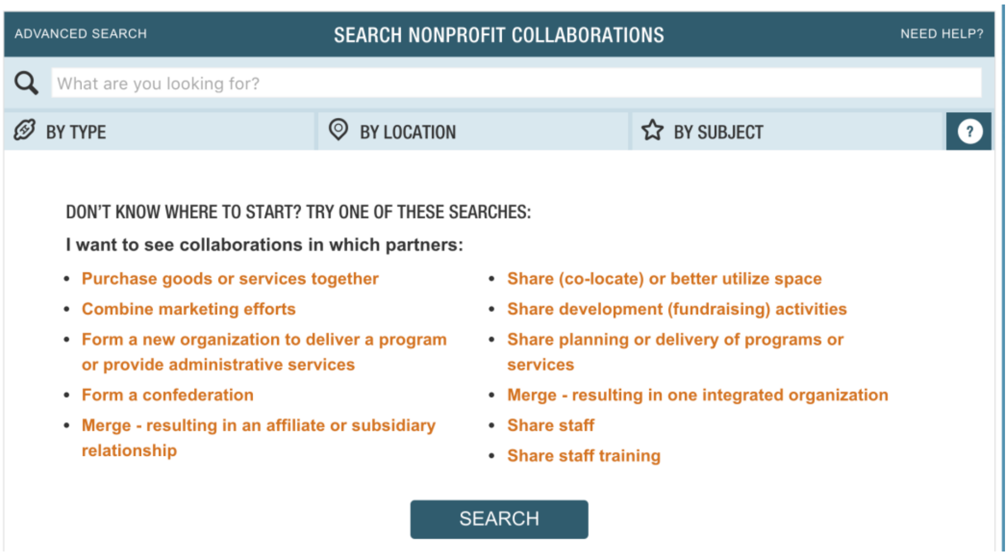
In addition, Foundation Centre provides a service called GrantSpace.[52] Its ‘Collaboration Hub’ “…serves as a home to vast resources related to collaboration in the social sector. This Hub includes valuable publications, questions and answers, links to videos and podcasts, blog posts, and a comprehensive, searchable collection of 650+ profiles of vetted collaborations submitted for the Collaboration Prize in 2009 and 2011.”

[50] La Piana, David. “Merging Wisely.” Stanford Social Innovation Review 8, no. 2 (2010): 28-33. https://ssir.org/articles/entry/merging_wisely

[51] https://collectiveimpactforum.org/resources/what-are-different-ways-collaborate

[52] http://grantspace.org/collaboration

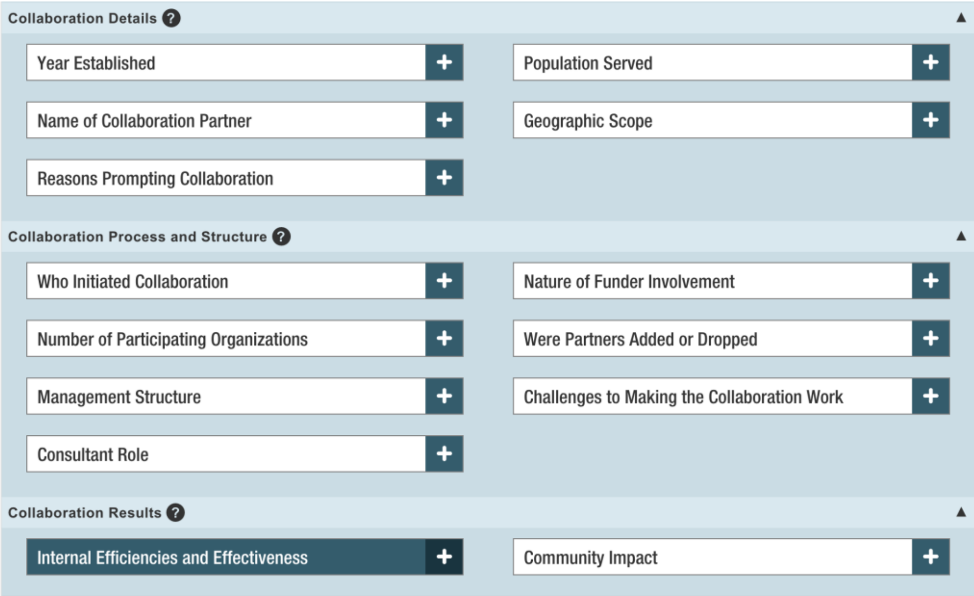
Figure 3: GrantSpace Website



- Purchase goods or services together
- Share (co-locate) or better utilize space
- Combine marketing efforts
- Share development (fundraising) activities
- Form a new organisation to deliver a program or provide administrative services
- Share planning or delivery of programs or services
- Form a confederation
- Merge—resulting in one integrated organisation
- Merge—resulting in an affiliate or subsidiary relationship
- Share staff
- Share staff training

These are just examples of ‘Collaboration Results’. The database itself does not use these descriptors, instead using the four collaboration types described above. However, the database does contain many other fields, as indicated in Figure 4:

Figure 4: grantspace.org database fields[53]



Of these fields, some are pertinent to a general discussion about collaborations. Lists of the options available are reproduced below under the following headings:

1. Collaboration Details > Reasons Prompting Collaboration.
2. Collaboration Process and Structure > Challenges to Making the Collaboration Work.
3. Collaboration Results > Internal Efficiencies and Effectiveness.
4. Collaboration Results > Community Impact.

Collaboration Details > Reasons Prompting Collaboration

- Potential closure of one or more of the partnering organisations.
- Funder initiated / mandated the collaboration.
- Financial problems / pressures within one or more of the collaboration organisations.
- Competition for funding, donors and/or clientele.
- Difficulty in meeting external standards / requirements imposed on our organisation.
- Difficulty funding necessary technological initiatives.

[53] http://grantspace.org/collaboration

- High / increasing costs.
- (Potential) departure of one or more Executive Directors / CEOs.
- Parent organisation request.
- Advancement of a shared goal.
- Response to a community need.
- Response to a funding opportunity.

Collaboration Process and Structure > Challenges to Making the Collaboration Work

- Lack of trust among partners.
- Addressing lack of staff or allocation of staff resources.
- Achieving shared vision.
- Clarifying partner roles.
- Coordinating / merging / integrating operations.
- Reaching agreements in marketing / branding.
- Retaining staff or staff departures.
- Leading / managing the collaboration.
- Raising funds or integrating fund development to support the collaboration.
- Creating a shared culture.
- Costs of collaboration.
- Coordination / integration of programs / services.
- Conflict between / among partners.
- Facing competitive factors in the operating environment.
- Internal / external communication.
- Accepting change.
- Zoning / development of physical (shared) space.
- Concerns and risk / risk management.
- Defining and measuring success.

Collaboration Results > Internal Efficiencies and Effectiveness

- Greater ability for each partner to focus on core competency.
- Greater ability to allocate resources to areas of need.
- Financial savings:
    - Consolidation of staff positions.
    - Consolidation of management / administration.
    - Coordination / consolidation of programming.
    - Bundled insurance policies.
    - Joint purchasing.
    - Combined / coordinated marketing.

    - Reduced legal costs.
    - Combined / coordinated audit.
    - Shared development function.
- Reduction in overall cost per unit of service.
- Fund development.
    - Access to new / more sources of funding.
    - Successful capital campaign.
    - Improved fundraising results.
- More efficient use of physical space.
- Co-location or shared space.
- Human resources.
    - Stronger / more effective board of directors.
    - Increased use / leveraging of volunteer efforts.
    - Improved employee experience.
    - Shared and / or improved training and professional development.
    - Increased access to technical expertise (e.g., HR, Finance, IT).
- Improved marketing and communications, public relations and outreach.
- Enhanced ability to manage reporting, documentation or billing.
- Reduced risk or greater capacity to take on risk.
- Predictable revenue stream for provider of administrative services.

Collaboration Results > Community Impact

1. Contributed to the local economy.
2. Retained programs / services in the community.
3. Improved quality of programs / services.
4. Increase in number of clients / individuals / organisations served.
5. Stronger / more effective 'voice'.
6. Able to serve a greater geographical area.
7. Increased collaboration with / among other community organisations (beyond the scope of the original collaboration).
8. Improved program outcomes.
9. Greater range / variety of services / programs offered.
10. Previously unmet community need now being addressed.
11. Collaboration has served as a model for others.
12. Greater coordination of services (less overlap, duplication, fragmentation).

It is a detailed understanding of these issues and drivers (reasons prompting collaboration – challenges to making the collaboration work – internal efficiencies and effectiveness – community impact) that we are referring to when we talk about an organisation being 'strategically prepared' for looking at collaboration options. For the collaboration outcomes to be optimal, the decision makers in the organisation must consider — as far as possible given the organisation's resources and their access to information — both the intended and unintended consequences of the available collaboration options.

Options for Collaboration[54]

In the balance of this section we look at twelve distinct collaboration options:

1. Shared advocacy
2. Shared services (including group buying)
3. Shared delivery
4. Auspicing
5. Mentoring
6. Co-location
7. Shared product/service development
8. Shared distribution
9. Shared marketing
10. Endorsements
11. Joint ventures
12. Licensing

And four distinct group options:[55]

13. Consortia, Membership Bodies, Peak Bodies and Coalitions
14. Federations
15. Cooperatives
16. Franchises

We examine each collaboration and group option in detail, looking at aspects that would typically be covered in a due diligence review:

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[54] Corresponds with Video 'Collaborations Menu -Collaborations Menu Introduction'

[55] Corresponds with Video 'Collaborations Menu -Vehicles of Collaborations'

Aspect	Defining Characteristics
Strategic goals	What the organisation should seek to achieve from the option (in line with the organisation's articulated strategy).
Why / when would you use it?	The circumstances under which the organisation might consider the option, and what functionality or control would be replaced if it did.
Who is involved?	The positions that would typically be involved in operating under the option.
What needs to happen?	The general steps the organisation would need to take to implement the option.
Factors critical to success	The 'must have' steady state condition that should be achieved by the option for it to be considered a success. Consider that the journey towards that destination might also be important.
How do you measure success?	The metrics relevant to the critical success factors.
Investment and risks	The cost of moving to the option and the risks the organisation might be exposed to during the transition and the new steady state.

For each option, we also provide generic examples of what it might look like for different organisations.

Finally, for each option, we discuss (where appropriate) how to quantitatively **analyse** the option. The general style of analysis, and one that can be used in the absence of a specific style being described, is as follows:

	Total independent cost per year
Less:	Collaboration cost per year for same scope
Equals:	Collaboration saving per year, before management costs
Less:	Costs of managing the collaboration
Equals:	Collaboration saving per year, after management costs

The collaboration saving per year needs to be considered in the context of the costs of entering the collaboration and the period over which the collaboration is expected to endure. If there are costs of leaving the collaboration arrangement then it is sensible to consider those also.

As we move through describing the collaboration options, you might form the view that they all start to sound much the same. This is a fair observation, given that they all involve working with other organisations. They may have many other elements in common, such as:

1. Formality
2. Long-term commitments
3. Transfer or sharing of decision-making powers
4. Changes to corporate structure

However, each option is unique by virtue of the particular settings of each of those elements.

1. Shared advocacy[56]

What is it?

The Danish Youth Council (Dansk Ungdoms Fællesråd; DUF) defines advocacy as:

"[A] planned, purposeful effort to advocate for, or enact influence on, a cause with the purpose to create lasting, positive changes in society. Advocacy is a process, where you turn the focus outwards".[57]

Advocacy is a systematic and strategic approach to achieve positive, lasting change – that is, a change that will last after the project ends. It is about persuading and influencing those who have power and responsibility to take an interest in your issue and act for change.

Shared advocacy is formal yet simple arrangement between two or more organisations to jointly develop and deliver public messages that further their aims in influencing policy or opinion.

Strategic goals

Shared advocacy is aimed at changing policy or opinion in a way that provides a benefit to the collaborating organisations and their beneficiaries.

[56] Corresponds with Video 'Collaborations Menu -Shared Advocacy'

[57] http://duf.dk/

Why and when would you use it?

Shared advocacy is appropriate when organisations have shared positions on which they would like to see policy or opinion change or settle, and when collaboration does not present any other conflicts or inconsistencies. For instance, it might be unwise for organisations to collaborate in this way, and consequently be associated with each other in the public eye, if they share views on some matters but not on material and/or controversial other matters.

Who is involved?

Advocacy is usually a function performed by an organisation's board, senior executive, or marketing and communications team. These players interact with their counterparts from other collaborating organisations to clarify the position of each organisation and structure the message and advocacy channels.

What needs to happen?

Being a formal yet uncomplicated arrangement, shared advocacy arrangements should be evidenced by a written agreement between the participating organisations — perhaps in the form of a Terms of Reference document for a working group comprised of representatives from each organisation.

Factors critical to success

The policy alignment between the collaborating organisations is genuine and enduring.

How do you measure success?

The voice of the shared advocacy effort is more influential than the sum of the individual voices in achieving policy or shifts in opinion.

Investment and risks

Given that this is not a deeply operational collaboration option, the biggest risk is to your reputation – you have aligned with another organisation, so your image is now tied to theirs.

Examples

As an example, consider organisations that provide support to infants and children (that is, aged 0 to 6) with a disability or developmental delay. Organisations in this space will include those providing autism services, speech therapy, occupational therapy, and the like. They have a shared understanding of the importance of early childhood intervention, and a shared interest (on behalf of their beneficiaries) in attracting more funding and clinical talent. By advocating for this together, they create a stronger message and speak in a far louder voice.

2. Shared services (including group buying)

What is it?

Shared services involve two or more parties agreeing to pool their resources and efforts to reduce the total resources required to achieve a desired outcome, with the effect that each party derives a proportional benefit from the arrangement.

Shared services can be undertaken internally — this involves establishing or nominating a single unit in the organisation that brings together functions previously performed by separate business units — but this does not represent a collaboration; nor is it common in the NFP sector, as it is generally applicable to larger organisations.

Group buying (or joint purchasing) is a good example of a shared services scheme that involves other organisations in a collaboration to share a function. It entails the purchase of goods and services by a group of organisations with the objective of saving costs, both directly through achieving lower unit costs — by purchasing in bulk, the buying power of the collective is substantially increased, often resulting in significant cost savings — and/or indirectly by reducing the collective resources required to operate the function (and therefore each organisation's share). Organisations can make joint agreement, or contract a third party to purchase on their behalf.

Strategic goals

Shared services are used to reduce direct and indirect costs.

Why and when would you use it?

There is nothing to prevent an organisation utilising shared services for any organisational function. However, it would be counter-intuitive for an organisation to make such arrangement for any function which sits at the heart of the organisation (e.g. the executive) or which provides it with a competitive advantage (e.g. product/service development), particularly in a competitive market. Accordingly, it is normally the 'back office' functions (e.g. procurement, finance, human resources) that are considered for shared services.

A shared service replaces performing the whole function with some level of interaction with the function provider. For instance, if an organisation moves its payroll function to a shared service, the organisation still needs to undertake human resources functions, such as obtaining key employee details and contracting with employees; but the handling of time data (hours worked) and pay calculations passes to the shared service.

Who is involved?

The same people who previously had accountability for the function retain that accountability. Responsibility for performing the work becomes split between those people and the shared service, with the internal team performing less of the 'doing', and instead more of the interaction and oversight of the shared service.

What needs to happen?

- Identify the functions the organisation is prepared to have performed by a shared services provider.
- Specify the extent to which the organisation is prepared to have those functions performed by a shared services provider, and any operational constraints to be imposed on the shared services provider.
- Identify an appropriate shared services provider.
- Negotiate acceptable terms.

Factors critical to success

The service provided must be at the required standard, it must deliver cost savings, and the consequences of the loss of autonomy must be outweighed by those cost savings.

How do you measure success?

The overall cost of the service must decrease to an extent greater than any decrease in service level.

Investment and risks

Shared services can be 'inbound' or 'outbound'. If an organisation agrees to provide services for the collective (inbound), then an investment may be required to scale up capacity to be able to service the collective. Conversely, if an organisation becomes a receiver of shared services, then there may be past investments (e.g. computer systems and equipment) that will become idle.

Examples

Procurement, ICT support, payroll.

How to analyse this option

Using the example of group buying, the analysis could focus on the following elements:

Item description	The nature of the item being consumed by the business
Unit of usage	The unit in which the item is purchased (e.g. per kilogram, litre, box of 100)
Usage quantity per year	How many units of the item are consumed per year
Regular cost per unit	What price is currently being paid for the item
Collective cost per unit	What price would be paid in the proposed collective purchasing arrangement
Saving per unit	The regular cost less the collective cost
Saving per year	The product of the saving per unit and usage quantity per year

3. Shared delivery

What is it?

Service providers collaborating to deliver complementary services to each other's clients.

Strategic goals

To unlock underutilised service staff capacity.

Why and when would you use it?

When non-competing service providers operate in similar territories and have unacceptably low productivity and/or utilisation rates.

Who is involved?

This option affects the way client-facing staff are deployed, so everyone in the service side of the organisation is involved, along with their management.

Factors critical to success

A clear, shared understanding of the standard of service expected. Each collaborator will need to be certain that their staff and the staff of the other collaborators will consistently perform to that standard.

How do you measure success?

Service staff utilisation (the billable proportion of the time they are available to deliver services) will increase if the collaboration is able to achieve efficiencies in the geographical matching of clients and staff.

Investment and risks

This is a high-risk option, as its success relies on a consistently high standard of service from the service staff of all participating organisations.

4. Auspicing[58]

What is it?

Umbrella or auspicing relationships can be formed by similar organisations that run distinct but complementary services. The umbrella organisation handles governance and 'back office' functions, while retaining the distinct 'front of house' identity of their respective services. The participating organisations form a joint management committee that oversees administrative functions. The coordinators of each agency also report to the joint management committee. Funding flows through the umbrella organisation, which purchases services from the agencies.

Another form of auspicing, fiscal sponsorship, refers to the practice of an organisation offering its tax-exempt and/or charitable status to

[58] Corresponds with Video 'Collaborations Menu -Auspicing'

unincorporated groups engaged in activities related to the organisation's mission. It typically involves a fee-based contractual arrangement between the fiscal sponsor and the unincorporated group. The fiscal sponsor often provides some amount of administrative support to the project.

Strategic goals

Auspicing achieves two main strategic goals: access to the services of the host, and access to the profile and status of the host.

Access to the services of the host provides cost-effective support. The auspiced organisation can more or less pay for use rather than bear the cost of setting up their own functions.

Access to the profile and status of the host can deliver a range of benefits, including access to increased donation income by virtue of being able to offer donors tax deductibility.

Why and when would you use it?

Typically used by small organisations that lack the scale to economically stand up their own functions.

Who is involved?

Given the auspiced organisation will likely be small, all personnel with a functional responsibility (including directors, if that responsibility is constitutionally established) will be involved in the relationship with the host organisation.

Factors critical to success

The host is able to consistently provide the type, quality, quantity and timeliness of services required by the auspiced organisation.

How do you measure success?

The fees charged under the auspicing arrangement are less than the sum of the cost of the auspiced organisation standing up their own functions and the cost of managing the auspicing arrangement.

Investment and risks

Auspicing is a low risk and low investment collaboration option.

5. Mentoring

Some of this material has been adapted from the David Clutterbuck Partnership at: https://www.davidclutterbuckpartnership.com/cross-mentoring-mentoring-between-companies/.

What is it?

Two or more organisations coming together in a reciprocal or non-reciprocal arrangement to provide and receive mentoring for specified personnel.

Strategic goals

The primary goal is unchanged from person-to-person mentoring — it is for the professional and personal development of the mentee. In a cross-organisational setting, the strategic goals are broadened to include giving mentees access to very different perspectives and sometimes to expertise that does not exist in their own organisation, and to stimulate innovation within both organisations as mentors and mentees share ideas and ways of doing things.

Why and when would you use it?

Mentoring will be effective when it has been established that the professional or personal development needs of personnel cannot be adequately met via internal arrangements.

Who is involved?

Mentoring involved mentors and mentees. Distinct from coaching, it is typically offered to high performing personnel, at whatever level of the organisation they may be. Mentors are typically more experienced (in the relevant area) than mentees. Others involved would normally be Human Resources, who would run the development process, and the line managers of the mentors and mentees.

Factors critical to success

- Training together in the role of mentor and mentee is essential. Having a common understanding and expectation of mentoring provides a foundation for managing different perspectives that arise from each company's culture and business style.

- Very clear agreements are needed from the start about issues such as confidentiality and non-poaching. In general, consortia reduce potential problems here by ensuring that members are from non-competing sectors.
- Participants need support – both online resources they can draw upon and someone to talk to about the mentoring relationship. Having a neutral programme manager (someone from outside the participating companies) makes this a lot easier.
- There must be a mechanism for ensuring that all partner organisations feel fairly treated, in terms of giving and receiving mentoring. We recommend that there is a steering group of sponsors, tasked with having an open dialogue about such issues, among other things.

How do you measure success?

Success will manifest through the mentees gaining professional and personal development. Documenting the expected development milestones at the commencement of mentoring will enable measurement against them.

Investment and risks

This is a low investment option. The risk depends on which organisations are involved in the collaboration — the lower the level of competition, the lower the risk of information or ideas leaking out or personnel being poached.

6. Co-location [59]

What is it?

In a simple co-location arrangement, two or more organisations share common premises. The costs associated with the premises, such as rent, insurances, repairs and maintenance, utilities, cleaning, security are shared between the two or more organisations.

In a broader co-location arrangement, the organisations can also share a range of administrative functions and facilities, such as

[59] Corresponds with Video 'Collaborations Menu -Co Location'

secretarial services, photocopying, telephones, internet, kitchen facilities and supplies.

Broader still would be a co-location arrangement in which the collaborating organisations form a company that manages the premises and engages a range of staff to perform administrative functions relating to the management of the facility, or even extended further to providing additional (typically back-office) functions.

Strategic goals

A reduction in the collective costs and therefore the proportionate shares of the individual organisations' costs associated with common premises.

Why and when would you use it?

Co-location is appropriate for small scale organisations aiming to get more for what they spend or to spend less to get the same. A motivator for an organisation of any size may be to get exposure to a market they are not exposed to as a free-standing operation.

Who is involved?

This collaboration does not seek to impact on service delivery. It can hence be considered an administrative matter (with about the same weight as choosing premises for exclusive use) that might ordinarily be handled by an executive team member without broad consultation. Once in place, formal agreements and protocols are used to clarify roles and responsibilities (e.g. governance arrangements, administrative arrangements, policies and procedures). All personnel from the participating organisations who are exposed to the common premises and services are involved in the manner prescribed in those documents.

Factors critical to success

An alignment between the participating organisations on a substantial dimension (e.g. similar style of services, similar beneficiaries).

How do you measure success?

Lower costs for each participating organisation. For those seeking growth through the extra exposure, measures of growth.

Investment and risks

Moving premises is expensive and disruptive. The cost of entering the collaboration will be doubled it does not work out.

7. Shared product and service development / 8. Shared distribution / 9. Shared marketing

What is it?

A collaboration in which organisations come together to launch and manage one or more programs or functions to further the strategic goals of the participating organisations.

Strategic goals

These collaborations are broadly aimed at all four of the primary strategic objectives (increased quantity; improved quality; decreased cost; decreased risk). All of these strategic goals are considered likely outcomes, with the exception of improved quality – shared distribution could possibly improve quality, while shared marketing is unlikely to improve quality.

Why and when would you use it?

Shared marketing is appropriate when collaborating organisations have complementary skill sets and can identify synergies in undertaking marketing together. Shared distribution and marketing also require alignment, but can arguably succeed with less specific common ground than shared product and service development.

Who is involved?

Functional managers are the principal participants in the first instance, and will remain involved throughout the life of the collaboration. The operating personnel who will be involved in the execution of the work may vary from time to time, depending on the nature of the collaboration. For instance, a shared marketing collaboration might be used for occasional joint campaigns rather than all marketing activities.

Factors critical to success

For all this style of collaboration to succeed there needs to be a common vision and desire for the collaboration to benefit all the participating organisations. The participating organisations should also be equally comfortable generating ideas and building on or critiquing the ideas of others — it is important that every party has a constructive voice in specifying the shared position.

How do you measure success?

In the short term, these potentially quite intimate collaborations could be considered successful if they hold together and do not cause slippages in quantity, quality, cost or risk. We expect that there will be broader qualitative benefits to the participating organisations and the employees involved in executing the collaborative activities. Of course, in the longer term, success would be measured by the extent of the improvement achieved in the strategic objective metrics.

Investment and risks

We assess these collaborations as heavy on both investment and risk. The investment side is primarily composed of the time required to establish the collaboration and transition operations. The risk side is primarily the participating organisations meeting each other's expectations, and also the collaboration delivering the projected quantum of benefits.

10. Endorsement

What is it?

Less formal joint marketing or profile building scheme in which participants agree to cross promote each other's services.

Strategic goals

To raise the organisation's profile and increase recognition.

Why and when would you use it?

When two or more organisations operate in one market, location or service area and provide complimentary services that are not competing.

Who is involved?

Usually an MOU or some other agreement would be put in place confirming the referral arrangements, including what representations are made and how.

Factors critical to success

Trust and clear, articulate expectations.

How do you measure success?

Numbers of referrals.

Investment and risks

Minimal investment and risk.

11. Joint venture [60]

What is it?

A joint venture is a legally formed alliance in which member organisations maintain joint ownership to provide specific services.

Joint ventures are a formal approach to consolidating some portion of the administrative, program, or advocacy functions of two or more organisations within a single jointly controlled organisation.

Participant organisations share governance of the new organisation through a joint board.

A management service organisation (MSO) is a specific type of new organisation created to integrate administrative functions, and thus increase the operational efficiency of participating organisations.

Strategic goals

Many joint venture organisations are established to further a specific program or advocacy goal.

[60] Corresponds with Video 'Collaborations Menu -Joint venture'

Why and when would you use it?

As a more formal style of collaboration, the joint venture should be used where formality is required (e.g. to satisfy a third party in a commercial transaction) or desired (e.g. to separate the branding of the collaboration from the branding of the participant organisations).

Who is involved?

The executive and board will drive the establishment of the joint venture. Who is involved thereafter is a function of what the joint venture has been created to achieve.

Factors critical to success

PwC identified seven factors [61] or steps that can help position a joint venture for success:

- ***Put strategy first.*** Start with a strategy, not a partner. A solid strategy will help determine if a joint venture is the best approach compared to organic growth or traditional merger and acquisition. It can also clarify the best joint venture structure.
- ***Invest in joint upfront planning.*** Upfront planning helps create the foundation for successful execution, reduces surprises and builds trust.
- ***Plan the end.*** Considering that many joint ventures have a limited life and eventually need to be unwound or dissolved, agree on a formal process, including what will happen to any shared assets and people.
- ***Create trust.*** Make and live up to small, ongoing commitments; facilitate equity (each party proportionately rewarded based on what they put in); cooperate with one another; be open and transparent; be willing to adapt; celebrate successes; adopt a 'win-win' mind-set; and focus on growing the whole pie, not securing the biggest slice.
- ***Start small.*** Begin with a narrow, achievable shared objective; manage expectations, focus, and aim for early success; expand your joint ambitions as trust and confidence grows.

[61] http://www.pwc.com/us/en/deals/publications/assets/pwc-deals-joint-ventures-strategic-alliances.pdf

- ***Keep track.*** Agree on metrics that will reflect success at achieving the joint venture's objectives; adjust metrics as the joint venture evolves.
- ***Build enterprise-wide capability.*** Establish a dedicated corporate alliance management function, and use this to codify and share leading practices, drive collaboration, provide expertise, coordinate relationships with key partners, and ultimately create an enterprise-wide 'alliance culture'.

How do you measure success?

With many objectives possible, it might be timely to remember SMART strategic goals: Specific; Measurable; Agreed; Realistic; Time-based.

Investment and risks

The substantial internal effort and third-party costs (e.g. legal, advisory) that go into establishing a joint venture are sunken costs.

12. Licensing

What is it?

A licence is the right to use the intellectual property of another party. In the context of the provision of disability services, licencing is likely to be undertaken in relation to well-defined models of care.

Strategic goals

The principal goal is to achieve better, faster and/or cheaper results by buying rather than building know-how.

Why and when would you use it?

Consistent with the goal, an organisation would enter into a licensing arrangement when, on balance, it is better off leveraging the existing expertise of the licensor.

Who is involved?

This depends on what is being licensed. If (as we expect) the arrangement pertains to a model of care, it could be expected that the relevant service line managers and selected members of their team would be intimately involved in assessing the model offered, to ensure that it is appropriate to the relevant client cohort and will meet all the organisation's expectations (for instance, around quality and safeguarding).

Factors critical to success

A robust assessment of the intellectual property is essential.

How do you measure success?

Success is measured against whichever metrics are driving the decision to license (better, faster, cheaper).

Investment and risks

The investment resides in the effort required to assess both the intellectual property of the licensor and their proposed commercial arrangements. The size of the investment will correlate directly with the scope and scale of the proposed arrangement. The risk will emanate from any misunderstanding of the rights and obligations under the license, the performance of the licensor, and the outcome of the application of the intellectual property in meeting expectations.

13. Consortia, Membership Bodies, Peak Bodies and Coalitions

Consortiums, associations, coalitions and clubs are groups of organisations, individuals, and/or government organisations that choose to pool their resources and work toward the achievement of a common goal. Coalitions typically share a specific political or social change goal, while consortiums and associations typically serve and represent the interests of those involved — though this distinction is not universal. Associations are more likely to hold their members to a common set of standards, but again, that distinction is not universal; many ask for little more than dues and an annual commitment to participate in the advancement of shared strategic goals. Coalitions may be temporary or long-term, small or large and local or national. They may operate more or less informally, with or without the formation of a separate legal organisation. These alliances can evolve over time. Some start less formally and over time move toward the establishment of a formal, legal connection between organisations, or even the formation of a new organisation, such as those described below.

National Disability Services (NDS), is a good example of a membership/peak body. It is the peak body for Australia's disability service providers, and promotes itself as “a strong voice for disability service providers”. National Disability Services (NDS) fulfils advocacy and training roles on behalf of its thousands of member organisations. Membership is optional, annual, and affordable (membership fees are linked to turnover). National Disability Services (NDS) achieves advocacy objectives through influence alone.

14. Federations

A federation is an alliance of member organisations established to centralise common functions. It is a formal structure for separate organisations to work together. In practice, federations seem to carry more weight than membership bodies, perhaps because they have a formal and singular place in the relevant landscape. This is very evident in sporting federations, such as Football Federation Australia (FFA) and Relationships Australia.

In some cases of strategic collaborations, a national umbrella organisation might exercise a degree of control over local independent charities. In these circumstances, members might be affiliated with the umbrella body and have access to the resources and expertise offered.

15. Cooperatives

A cooperative is a democratic organisation, owned and controlled by its members for a common benefit. Cooperatives are traditionally based on the values of self-help, self-responsibility, equality and solidarity. Members of a cooperative can benefit from economies of scale through the combined purchasing, distribution or marketing power or influence of the group. They share in the investment and operational risks and losses, as well as its benefits. Cooperatives can be very large and sophisticated — Western Australia’s CBH Group is Australia’s largest cooperative; owned and controlled by around 4,200 Western Australian grain growers; with total assets of more than A$2billion.

16. Franchises

According to the Franchise Council of Australia (FCA): “Franchising is a business relationship in which the franchisor (the owner of the business providing the product or service) assigns to independent people (the franchisees) the right to market and distribute the franchisor's goods or service, and to use the business name for a fixed period of time”. [62] The International Franchise Association defines franchising as: " a continuing relationship in which the franchisor provides a licensed privilege to do business, plus assistance in organising training, merchandising and management in return for a consideration from the franchisee.”

Franchises are very visible in Australia; the landscape is literally filled with them — McDonald’s, Jim’s Mowing, Coffee Club, Baker’s Delight. Each franchise agreement is different, but typically involves the franchisee paying an upfront fee to buy the franchise, and then ongoing fees for services. The ongoing services from the franchisor often include support for marketing, branding, management, new product development and training.

The FCA has set out their perception of the advantages of the franchise system. The reader will note that the list is aimed at informing a potential ***commercial*** purchaser in a ***For-profit*** business.

- The franchisor provides detailed training.
- The franchisee has the incentive of owning their own business with the additional benefit of continuing assistance from the franchisor.
- The franchisee benefits from operating under the name and reputation (brand image) of the franchisor, which is already well established in the mind and eye of the public.
- The franchisee will usually need less capital than they would if they were setting up a business independently because the franchisor, through their pilot operations and buying power, will have eliminated unnecessary expense.
- The franchisor provides the advice and/or help in identifying suitable trading locations or operating territories for the franchisee.
- The franchisor helps the franchisee obtain occupation rights to the trading location, comply with planning (zoning) laws, prepare plans for layouts, shop fitting and refurbishment, and provide general assistance in calculating the correct level and mix of stock for the opening launch of the business.
- The franchisor trains the franchisee (and very often, the franchisee's staff as well) in all areas of the business such as; manufacture, preparation, accounting, business controls, marketing, promotion and merchandising.
- The franchisor may negotiate better rates of finance, or more favourable conditions, for franchisees with financial institutions.

[62] http://www.franchise.org.au/

- The franchisee receives the benefit on a national scale (if appropriate) of the franchisors advertising and promotional activities at a lower cost than if they were to attempt such marketing themselves.
- The franchisee taps into the bulk purchasing power and negotiating capacity made available by the franchisor by reason of the size of the franchised network.
- The franchisee can call on the specialised and highly-skilled knowledge and experience of the franchisor's head office organisation, while remaining self-employed in their business.
- The support and benefits provided by a franchise system greatly reduce a franchisee's business risks.
- The franchisee has the services of the field operational staff of the franchisor who are there to assist with any problems which may arise from time to time in the course of business.
- The franchisee has access to use the franchisor's patents, trademarks, copyrights, trade secrets, and any secret processes or formulae.
- The franchisee has the benefit of the franchisor's continuous research and development programs, which are designed to improve the business and keep it up-to-date and competitive.
- The franchisor provides a knowledge base developed from their own experience, as well as that of all the franchisees in the system, which would otherwise be impossible for a non-franchised business to access.
- Defined territories of operation within the franchise can help protect the franchisee from competition.
- A franchisee can always speak to their franchisor or a fellow franchisee to discuss their business challenges or problems — something a non-franchised business can almost never do.

Fleshing out the issues of support, it is important at this stage to recognise common organisational barriers that some NFPs face, especially those operating in regional and remote areas. Typically, it is possible to persuade members of the local community to serve on the board of the NFP. However, these well-meaning people, as a group, may not have all the necessary skills required to adequately discharge their legal or fiduciary responsibilities. Missing skills often include:

1. Financial administration, e.g. policy, budgeting, processing of accounts, reporting, preparation and an understanding of profit and loss and balance sheet statements
2. Strategic planning and operational monitoring
3. Human resources / occupational health and safety

We argue that the above business skills are pivotal to the long-term success of a NFP, and indeed government programmes. Conversely, the absence of these core organisational skills inevitably results in disappointment, disputes and time-consuming frustration for both funders and NFPs.

Matrix of collaboration options[63]

While the twelve collaboration options are discussed above in some detail, sometimes it can be easier to distinguish between options when they are compared side by side.

The matrix below provides such a comparison, considering the following four characteristics:

[63] Corresponds with Video ‘Collaborations Menu -Collaborations options summary’

Quantity — **“**Do more”

- Increase market share (same services in same market)
- Reach new markets (different services in same market; same or different services in new markets)

Quality — **“**Do better”

- Create higher quality services
- Achieve greater service efficiency

Cost — **“**Do cheaper”

- Achieve cost efficiency through economies of scale
- Achieve lower collective costs by consolidating functions

Risk — “Do with lower variation in results”

- Diversify income sources (lower the risk of being materially impacted by the loss of any one income source)

The likelihood scale used is (low to high):

• Unlikely	Unlikely
• Possible	Fairly likely
• Likely	Most likely

	Strategic Objective			
Collaboration option	**Increase Quantity**	**Improve Quality**	**Decrease Cost**	**Decrease Risk**
Shared advocacy	Likely	Likely	Likely	Likely
Shared services	Unlikely	Possible	Likely	Possible
Shared delivery	Likely	Likely	Likely	Likely
Auspicing	Unlikely	Unlikely	Likely	Likely
Mentoring	Possible	Possible	Possible	Possible
Co-location	Possible	Unlikely	Likely	Possible
Shared product/ service development	Likely	Likely	Likely	Likely
Shared distribution	Likely	Possible	Likely	Likely
Shared marketing	Likely	Unlikely	Likely	Likely
Endorsement	Possible	Possible	Possible	Possible
Joint venture	Likely	Possible	Likely	Likely
Licensing	Possible	Possible	Possible	Possible

General form of collaboration agreements

Any form of collaboration should be well-documented. Those that do not require or result in a merger, acquisition or divesture are possibly suitable to document in a manner that follows the principles of a partnership agreement. Partnerships are less likely to run into irreconcilable disagreements if the partners have had in-depth and honest talks about how they want to cooperate – and have put their agreements in writing. A partnership agreement helps you clarify expectations to each other, and it can be used as an agenda for dialogue on how you want to work together and what you want out of the partnership.

DUF[64] outlines possible items for a partnership agreement:

Statement of intent

1. What is the vision for the partnership?
2. What do you hope to achieve?

Parties involved

- Who are the organisations involved in the partnership?
- Who are the persons responsible for the management of the partnership and the project?

Objectives of the partnership

- What do you want to achieve by working in partnership?
- In what way does the partnership contribute to the vision and work of your organisations?

Values and principles

- What values and principles are important to you when working in partnership?

Mutual trust and respect

- What does mutual trust and respect mean to you?
- What do you understand as a lack of trust and respect?

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[64] http://duf.dk/uploads/tx_templavoila/3._Tool_-_Partnership_Agreement.pdf

- What will you do to share concerns and solve problems in the partnership?
- What will happen if there is a breakdown of trust and respect?

Description of partnership

- What will your relationship be?
- How will you cooperate?

Timescale

- Over what period will the partnership agreement run?
- Is there a possibility for renewal?
- Is there a maximum period?

Rights and obligations of each partner

- What are the obligations of each partner? (e.g. in relation to grants management and the conditions attached to grants)
- What rights does each partner have?

Roles and responsibilities

- What roles and responsibilities does each partner have in the partnership?

Sharing of information and confidentiality

- What information shall be shared between partners? What information do you want to keep confidential?
- When and how is information shared? What are the Consequences of not sharing the agreed information?
- What information may be used externally by each partner?

Decision making

- How and by whom will decisions be made within each organisation?
- How will you make sure that decision making is transparent?

Authority and signing procedure

- Who has the authority to approve actions in each organisation?

Financial management

- If you transact money, what are the terms, conditions and accounting standards that you will commit to?

Monitoring, Evaluation and Learning

- What frameworks will be used for monitoring and evaluating progress in your projects? By whom?
- How will you do reporting? What will you do to ensure that both partners are part of the reporting?
- How will you make sure that lessons learnt are shared and used in the partnership?

Opportunities to develop the partnership

- How will the development of the partnership be monitored and evaluated? By whom?
- How will you make decisions about developing the partnership?

Dispute and conflict resolution

- What behaviour will bring the agreement into dispute? How will you solve conflicts? What role will third parties play – if any?

Definition of terms

- A clarification and agreement of the terms can be an important part of the negotiation process and may help you to avoid future disagreements.

Module 5: Strategic Restructuring [65]

Do you need to read this section?

This section is for those considering undertaking major structural changes to their organisations. However, even if these actions are not on your agenda at present, it is good practice for all leadership teams to review the options for acquisition, sale, de-merger, merger and even winding-up each year as part of their annual strategic review.

Are you ready to read this section?

Any major strategic change, such as a merger or sale, should take place within the context of your organisation's strategy. Therefore, it is strongly recommended that you read Module 2 — Strategic planning, before commencing this module.

There are also specific terms used to discuss mergers, acquisitions, sales and winding-up and they are used differently by different commentators. As such, we recommend that you read Module 3 – The language of collaborations and strategic restructuring, prior to commencing this module.

Aims and learning objectives

The aims and learning objectives of this module are to understand:

- The main types of strategic restructuring options available to most NFPs – namely mergers, demergers, sales, acquisitions and winding-up.
- The reasons for and the situations in which organisations should consider these options.
- The advantages and disadvantages of the different options so that leaders can consider and discuss the choices available to the organisation and which to investigate further.
- That one or more of these options (other than winding-up) could be undertaken at the same time and they may be independent of your decisions regarding strategies for collaboration.

[65] Corresponds with Video 'Options for Restructuring -Introduction to strategic restructuring'

- The resources available and how to progress with selected strategies

Key messages

- Organisational effectiveness and efficiency is not simply about driving improvements in quality and value for money, but also about regularly considering the overall structure of the organisation in relation to current and future operating conditions.
- As part of the annual strategic review, all organisations should consider the strategic restructuring options available to them, if only to reinforce the reasons for remaining as an independent organisation with the current structure.
- It is important to consider these options objectively and to occasionally ask for a second opinion from external stakeholders or advisors. The current board and senior executive may have a vested interest in the current structure or be so close to the organisation that these options are not well considered.
- While the needs of current staff, structures and routines are important, when considering these options, the priority must be to consider what is in the best interests of the beneficiaries – both current and future.
- If an organisation is unable to provide services from operating income and is consuming assets to stay in businesses, this is unlikely to be in the best interests of beneficiaries. The directors are obliged to steward the assets in pursuit of the organisation's purpose. It can be difficult, but the more mature and responsible decision in this case would be to pass the assets to another organisation with the capacity to provide services to beneficiaries, rather than to consume assets in an attempt to keep the organisation alive.

Introduction

There are five main types of strategic restructuring covered in this module:

- Acquisition
- Sales/divestment
- De-merger
- Merger
- Winding-up

Transfers are similar to sales and acquisitions, but they do not involve payment in exchange for the acquired assets. Nonetheless, they can involve most of the same tasks and risks. For the sake of brevity, transfers of assets are included in the acquisition and sale sections.

Depending on the scale of the transaction, acquisitions or sales can be similar to mergers and de-mergers. The difference between them is that in the former, the number of organisations does not change, whereas mergers and de-mergers usually decrease or increase the number of operating organisations.

Elements common to all strategic restructuring activities

There are several elements that are common to all forms of strategic restructuring.

Key participants

Unless the transaction is very small, strategic restructuring usually involves the following people in at least one, if not both (or all) organisations participating:

- Board
- Chief Executive Officer and staff
- Chief Financial Officer and staff
- Human Resources Officer and staff
- Management staff of specific service areas

It is important to note that the risk and impact of a strategic restructuring are not the same for all parties in the transaction. For example, fewer people may be involved in selling an organisation, particularly after the transfer has taken place. As such, the extent of the involvement of the board and staff may vary on each side of the transaction.

In nearly all cases, the organisations will also need support from external advisors, including:

- Accountants
- Lawyers
- Business brokers
- Property and business valuers
- Financiers and lenders (e.g. banks)

- Consultants
- Other specialists

Other stakeholders affected, but not necessarily involved in evaluating and implementing the transaction include:

- Funders (including government)
- Philanthropists and donors
- Clients
- Staff
- Volunteers

The support or otherwise of these stakeholders can make or break plans to undergo strategic restructuring.

Investment and risks

The investment and risks in strategic restructuring occur in relation to the initial decision or transaction between the parties and those that arise through the integration or division of organisations. Prior to the transactions, in most cases both or all parties would undertake due diligence investigations, which are covered later in this module. Both the investment and the risk will vary significantly depending on the individual transaction. This impacts the extent of the due diligence required.

Factors critical to success for all types of strategic restructuring

Each strategic restructuring activity is different. The factors critical to success will vary, but there are several factors common to achieving success in nearly all cases. These are:

- Clear strategic goals. Strategic restructuring should usually be a significant step towards achieving your organisation's strategic goals. The clearer the strategic goals, the easier it is for leaders to determine the type of strategic restructuring and the process that will best meet those strategic goals.
- The purchase price and the deal agreed. Strategic restructuring is a business transaction that involves negotiating the agreement and price. The better your organisation's negotiation skills, the higher the likelihood of a satisfactory outcome. Many transactions between NFPs are conducted without payment to either party, but the transaction will still involve 'value'. An organisation's ability to extract value from the transaction will influence the outcome.

- The quality and effectiveness of the due diligence process.
- Agreement and support from other stakeholders. Key stakeholders can include funders (e.g. government agencies), philanthropists, clients, members, employees, benefactors, and others. In many cases, the success of a strategic restructuring is determined by the extent to which powerful stakeholders support the transaction.
- The quality of implementation planning.
- The execution of the plan.

Acquisitions[66]

What is an acquisition?

An organisation undertakes an acquisition when it acquires part of the operations of another organisation in exchange for financial or other resources. This section includes acquisitions without payment or receipt of transferred assets. Acquisition without payment can involve nearly all the same tasks and risks as acquiring assets with payment and therefore this section would apply.

> ***MercyCare and Belrose Care[67]***
>
> In 2016, MercyCare (WA), a large faith-based provider of aged care, community, child protection and other services bought aged care services from Belrose Care, a privately owned aged care facility. This acquisition increased MercyCare's aged care resident numbers from 113 to 500. The transaction was facilitated by Azure Capital.

Examples include the sale of a childcare centre from one NFP to another, or the purchase by an NFP of disability accommodation services from government. NFPs can also buy 'downstream' or 'upstream' operations, such as a laundry or transport services.

Acquisitions are not unusual within the NFP sector, but they often go unnoticed.

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[66] Corresponds with Video 'Options for Restructuring -Acquisition'

[67] 28/7/2016 Mercy Care buys more aged care properties. The West Australian Online. https://thewest.com.au/news/wa/mercycare-buys-more-aged-care-properties-ng-ya-114188 Accessed 14 April 2017.

NFPs can acquire operations from other NFPs, governments and the For-profit sector.

Strategic goals

To acquire (usually at the lowest possible price) operations (services and assets) that support the achievement of the organisation's strategy. These services and assets may increase market share, increase economies of scale, improve market reputation or support the diversification of services and risk.

Why and when would you acquire existing operations?

- To extend the range or scope of services to better meet the needs of beneficiaries.
- To achieve growth faster than can be achieved though organic growth. That is, it can be used as an alternative to organic growth.
- To build market share or economies of scale, or to better meet the needs of funders.
- When ownership of a key asset or control of a market is essential to the achievement of other strategic goals, e.g. buying the operations and facilities of the only aged care facility in a regional town.
- If valuable assets that support the organisation's strategic goals are unexpectedly offered in the market.
- When the organisation has sufficient reserves, access to capital or the ability to borrow funds to complete the acquisition.

Who is involved?

The extent to which participants are involved depends on the scale of the transaction. The boards would normally approve any acquisitions, but if the purchase is small and low risk, the transaction may be carried out by the executive team.

What needs to happen?

This depends of the scale of the transaction. For large scale transactions:

- Initial contact between the CEOs.
- MOU and possibly Heads of Agreement signed.
- Due diligence investigation. The acquiring organisation bears most of the risk and therefore should undertake detailed investigations to ensure that the acquired assets are value-for-money. Key transitions risks should be identified and mitigated

to ensure that the new services and/or clients can be effectively integrated into the organisation.

Additional factors critical to success

- Other possible sources of acquisitions and few other bidders. The weaker the market for the seller, the stronger the negotiating position of the buyer.
- Accurate market valuation.
- The speed of integration and the efficiencies gained (if this was a goal of the acquisition).

How do you measure success?

The success of an acquisition will depend on:

(1) The elements of the transaction agreed – that is, the deal that is struck, including the price and other terms.
(2) The success of the integration of the assets into the acquiring organisation and the achievement of subsequent strategic goals, such as service improvement, client acquisition and cost reduction.

Other possible options

Organic growth or merger.

Advantages and disadvantages

Advantages

1. Acquisition of services can be a considerably faster and lower cost method of achieving strategic goals than organic growth.
2. Purchased assets may be financially viable and bought as a going concern, immediately adding to the organisations profitability and sustainability.
3. Acquisition can enhance your organisation’s competitive strength, efficiency, and reduce the strength of competing organisations.

Disadvantages

- Acquisitions, like mergers, are complex transactions and can be high risk, depending on the history of the service and assets.

- Some acquisitions can be difficult to value, and there is risk of paying above-market prices.
- There is risk that the cost savings, market share or other strategic goals are not achieved.
- Clients of the existing service may not be retained and therefore cause returns to be lower than expected.
- The purchase may include the acquisition of assets or services that are not financially sustainable or do not fit with the strategy. These may therefore need to be sold on or wound-up.

Sale or divestment[68]

What is a sale or divestment?

A sale or divestment is on the opposite side of an acquisition transaction. In a sale, an organisation sells part of its operations, usually in exchange for financial or other resources.

NFPs can sell operations to other NFPs, to governments and to the For-profit sector.

Strategic goals

To sell (usually at the highest possible price) existing operations (services and assets) that do not support the organisation's strategy, or that can be liquidated, with the funds used for other purposes. The sale of assets provides income that can be used to purchase other assets that will better support the achievement of the organisation's objectives. Organisations may sell assets that provide services or products no longer needed by beneficiaries, that are not financially sustainable, a poor cultural fit, or that could simply be more effective if owned by another organisation. Some NFPs develop, pilot and sell new services as part of their business strategy. For example, they may establish operations to support a town in the aftermath of a natural disaster and then sell these services to a local provider at a later date.

Why and when would you sell existing operations

1. To improve strategic focus on higher priority services.

[68] Corresponds with Video 'Options for Restructuring -Sale'

2. To reduce debt or generate funds.
3. To divest loss-making services.
4. When a buyer in the market is willing to pay above replacement value.
5. When the aim of owning the services/assets has been achieved.

If the organisation has decided not to continue the provision of a services, sale replaces cessation of services.

Who is involved?

The extent to which key participants are involved will depend on the scale of the transaction. There may be fewer people involved in the selling organisation, particularly after the price is negotiated.

What needs to happen?

When considering ceasing or selling services, it is important to first consider if there are any restrictions over the sale of the service. These may arise in relation to assets to be sold, contracts or due to the organisation's constitution or legislation.

It is also important to clearly determine the effect of sale or closure on retained business operations. That is, it is important to undertake a detailed assessment (similar to due diligence) to determine things such as: the impact on the expenses of retained services; the service range available to clients, and therefore the attractiveness of your other services to clients or funders; the impact on staff efficiency; and your attractiveness as an employer. Depending on why and how the sale is undertaken, it may also affect your organisation's reputation.

If the sale is to proceed, the process involved will be determined by several factors, including the scale of the transaction, and:

- Identification and short-listing of potential buyers.
- Initial contact between the CEOs of the selling and buying organisations.
- MOU and possibly Heads of Agreement signed.
- Due diligence to ensure that the financial and other impacts are clearly understood by both organisations prior to sale.

Factors critical to success

- A thorough evaluation of the impact of the sale on the retained business operations, including on the seller's reputation.
- Support of key internal and external stakeholders.
- Effective transition planning for all key areas impacted, such as client and staff communication and retention.
- Accurate market valuation.
- A strong market or at least one buyer interested in buying the services at the price the seller will accept.
- Effective marketing of the assets by the seller.

How do you measure success?

This depends on the reasons for selling. If the sale is simply to excise part of the service, then the sales price and terms achieved would be an indicator of success, particularly if data is available on the returns of the initial investment in the service. However, there are a number of other important issues to be considered, such as: retaining or improving the reputation of the selling organisation, maintaining or improved services for clients/beneficiaries (no loss of clients) and continuity of employment for staff. These strategic goals should be clearly defined prior to the sale and assessed at an appropriate point post-sale.

Other possible options

Close the service. This can be a better option if sale would negatively impact your organisation's capacity or reputation. It may also be better to close the service if sale to another provider would enhance their competitive position.

Advantages and disadvantages

Advantages

- Realise the profit. That is, financially gain from the investment in the service.
- Maintain service provision to clients that otherwise might be affected if the service was to close.
- Enhance or maintain market reputation.

Disadvantages

- Risk that clients, staff, or stakeholders are unsupportive of the sale.

- Loss of any profits generated.
- Loss of contribution to the organisation's overheads.

De-merger[69]

What is it?

The separation of an organisation's services and the creation of a separate, standalone organisation. De-mergers can occur when an existing division of an organisation is established as an independent organisation. For example, an NFP may separate its disability services from other services and set these up as new stand-alone organisation. Other examples include a national organisation separating services into separate organisations in each state or territory to create local accountability and control.

Strategic goals

The goal of a de-merger is to separate a part of the organisation from the parent organisation to create to separate organisations.

Why and when would you demerge?

There are many reasons an organisation may wish to demerge. Examples include:

- To improve efficiency or focus. De-merging allows for the new organisation to have more autonomy.
- To reduce risk, especially if one part of the organisation is undertaking activities that present financial, operational, reputational or other risks to the parent organisation.
- To create a completely separate or related brand in order to differentiate offerings or better serve different markets. For example, Qantas created Jetstar for the leisure and budget travel markets.
- To better use assets.
- To avoid actual or perceived conflicts of interest, and occasionally to comply with funder obligations. For example, the Commonwealth Government may require a contracting organisation to be a Company Limited by Guarantee or a Proprietary Limited Company.

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[69] Corresponds with Video 'Options for Restructuring -Demerger'

- As a step toward sale.

Who is involved?

In most cases, all key participants, including the board, would be involved in decision making and implementation.

What needs to happen?

- The determination of the type of legal organisation to be created. For example, a Proprietary Limited Company, Association, or Company Limited by Guarantee; and the charitable status or otherwise of the new organisation.
- Creation of a new corporate body, including the development of a constitution, the establishment of a new board and the appointment new executives.
- The determination of the relationship between the parent organisation and the new organisation. The parent organisation could be the owner or hold a controlling interest in the new organisation, or have no relationship with it at all.
- The determination of the impact on taxation.
- The identification of services, clients, staff and resources to be allocated to the new organisation and the change of ownership of these resources.
- Legal and financial due diligence, including developing financial forecasts for the new organisation and for the parent organisation, especially on the impact on overall costs.
- Strategic planning, budgeting and operational planning for the new organisation.
- Changes to contracts for services and providers.
- Changes to employee contracts.

Factors critical to success

- Ideally, both the new organisation and the parent organisation should be more efficient and productive after the de-merger. However, at minimum, the costs of running both organisations should not increase.
- Clearly identified lines of control (if any) between the parent organisation and the new organisation.
- Support from clients and staff.

How do you measure success?

The new organisation and parent organisation achieve their financial and other strategic goals identified prior to the de-merger.

Other possible options

Sale or closure of services.

Advantages and disadvantages

Advantages

Retention of services can enable the parent organisation to retain a controlling interest in the new organisation and retain revenues and profits within the consolidated entity.

De-merger may also increase barriers to entry for competition.

Disadvantages

High risk of decreased rather than increased efficiency.

Winding-up or closing[70]

What is it?

Termination of the operations of the organisation, and the cancellation of business and other registrations.

Strategic goals

To close the organisation.

Why and when would you use it?

1. When there is insufficient current or future demand for services, or the organisation has achieved its objectives.
2. The organisation is insolvent or is unlikely to be financially viable in future. This could occur for many reasons, such as changes in operating conditions.
3. The board is not functional or is not willing to support the organisation and no other directors can be found.

[70] Corresponds with Video 'Options for Restructuring -Winding Up'

4. Loss of major customers or contracts.
5. Natural disaster results in loss of assets that cannot be replaced.
6. Irretrievable loss of market reputation which would subsequently result in the loss of contracts or clients.

Who is involved?

Closure of the organisation affects all key participants and staff.

What needs to happen?

The obligations of the board with regard to closing the organisation may be defined by the organisation's constitution, taxation law, as well as the law that allowed the organisation to become incorporated.

- Accurate organisational and financial analysis.
- Depending on the legal structure and constitution, members may be required to vote for closure.
- Determining a closing date.
- Communication to employees, customers, suppliers, funders, lenders and other stakeholders.
- Ending lease and other legal agreements.
- Payments of outstanding debts and taxes.
- Notifying ASIC, ATO and other regulators and the cancelation of the ABN.
- Sale or transfer of any remaining assets to another NFP.

Factors critical to success

- Organisations that have achieved their purpose or are no longer financially sustainable should close as soon as this is evident. Continuing to operate without a clear purpose may waste resources. Continuing to operate while making a loss risks insolvency.
- Closing an organisation requires funds. It is important to have a closure budget. In addition to payment of existing liabilities, the organisation is likely to need funds for professional advice.
- Closure involves emotional responses from staff, clients, volunteers, the board and others. Being prepared for these responses will reduce conflict and stress.

How do you measure success?

- By the value of resources transferred to other NFPs. The fewer the resources consumed to close the organisation, the more resources can be allocated to serving beneficiaries of other NFPs.
- The level of acceptance by clients, staff, the board and other key stakeholders and their support for the decision.

Other possible options

Transfer or sale of the organisation.

Advantages and disadvantages

Advantages

By closing as soon as it is evident that the organisation is either no longer needed or no longer financially viable, the maximum amount of resources can be retained for future use by other NFPs.

Disadvantages

Closing an organisation is not easy and takes strong leadership, often in the face of strong resistance.

Merger[71]

Purpose of this section

This section aims to: provide directors and senior executives with an understanding of the key components of mergers, and encourage the active consideration of this option.

There are many academic and lay articles, books and web-based information on mergers involving NFPs. This section summarises the key issues identified in these materials and our experience with mergers, but it does not replicate this information. Instead, we have provided references to other resources and those that are most applicable to the Western Australian context.

What is a merger?

A merger is the amalgamation of two or more organisations to form a single operating organisation, usually with a single Australian Business Number.[72]

Mergers often involve a smaller and larger organisation, or the merger partners may be of equal size. There are several different

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[71] Corresponds with Video ‘Options for Restructuring -Merger’

[72] Formal term of amalgamation – check 2015 NFP Law

methods for merging, such as the transfer of assets from one or more organisation to another, or the creation of a new organisation which then receives the assets from each of the merger partners. There are advantages and disadvantages for each method that may alter the merger process. However, the basic components are essentially the same for most types of merger, and these are discussed here.

Mergers are complex transactions. Boards and the senior executive will need to take legal, tax, accounting and other professional advice when considering or undertaking a merger.

Strategic goals

The goal of a merger is to combine the resources of two or more organisations to better serve or to reduce the cost of meeting the needs of current and future beneficiaries.

Why and when should organisations consider merging?

In some sectors, changing client expectations and increasing compliance costs increases the minimum efficient size (or scale) of the organisation, requiring organisations to either grow quickly or to seek a merger.

In other cases, mergers are pursed to achieve greater efficiency, market share, range or quality of services to beneficiaries, and attract funding from governments, sponsors or philanthropists.

It is good governance for boards and the senior executive to consider mergers when undertaking regular strategic planning or annual strategy review. That is, most organisations should actively consider merger opportunities at least once per year. By doing so, leaders are regularly reviewing the need of the organisation to continue to serve as a standalone organisation.

Mergers are an effective means to achieve strategic goals in many situations, including:

1. The organisation wants to grow faster than can be achieved through organic growth by, for example, merging with an organisation with the same business model, providing adjacent services or an organisation operating in other geographical markets.

2. The organisation wishes to defend or grow market share by, for example, merging with another mid-size provider to become a larger provider.
3. The ownership of a key asset or control of a market is essential to the achievement of other strategic goals. For example, if another organisation owns a service property or has a government agreement, merging may enable access to clients, markets or efficiencies that are critical for further growth.
4. Valuable organisations that would support growth are unexpectedly offered in the market at a price lower than replacement cost.
5. The organisation is not financially viable in the short-, medium- or long-term.
6. When the senior executive, and possibly the board, leaves and no suitable replacement can be found.

Who is involved?

Other than when the merger is with a very small organisation, in most cases, all key participants are involved.

What needs to happen?

The steps in a merger may vary depending on the operating environment and the characteristics of the merging organisations. In addition, each organisation may be starting from a different place, in that one may be prepared for merger and initiate the conversation, whereas the other may need time to consider the offer and undertake preparatory work.

Usual steps are: [73]

1. Ideally the organisations have a clear strategic plan that outlines why they intend to merge, with whom and how it will achieve better outcomes for beneficiaries.
2. Organisations seeking to merge will often undertake preparatory work to ensure their financial and other records are in order to assist in due diligence (covered later).

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[73] Complied by BaxterLawley from several sources, including *Mergers Made Simple*, Sayer Vincent.

3. In many cases, one of the organisations will ‘shop around’ for a suitable candidate and the CEO and/or board chair will meet with counterparts in other organisations to have an initial discussion about merger interest.
4. If there is some interest in pursuing the conversation, then the boards and/or the CEOs will meet. In nearly all mergers, one or both of the CEOs and other senior executives will lose their jobs, so it is important for the boards to appreciate the potential conflict of interest and address this early.
5. If the merger appears to be of interest, usually an MOU is drafted, agreed and signed by both boards (covered earlier).

Key Stages

1. Agreement in principle to merge.
2. The legal due diligence exercise and presenting the due diligence report to the board.
3. Resolutions of board of trustees/key meetings.
4. Merger transfer agreement negotiation.
5. A merger report prepared for the board.
6. The decision taken by the board to merge.
7. Signature of legal documents and completion.[74]

6. Feasibility studies. At this stage, the organisations may undertake a feasibility study to determine the overall benefits of the merger, and the risks and other key issues that should be identified before investing in a full due diligence study.
7. In some cases, an organisation may appoint a board sub-committee to facilitate the transaction, or form a joint committee composed of directors from both merging organisations. They may also agree to create

[74] http://www.co3.bz/amalgamate/management

a fund to cover some of the shared costs of legal and other advice, or one party may agree to cover these costs alone.

8. Each organisation prepares documents and information for the other organisation to review, as well as undertaking its own due diligence process to determine if they would like to proceed.
9. If due diligence does not identify any barriers to merge, the merger agreement is drafted. This will likely include issues such as:
    a. Branding
    b. Mission – and whether this need revision in light of the merger.
    c. Timing for negotiation.
    d. Transfer of contracts and liabilities.
    e. Transfer of funds.
10. Other tasks include:
    a. Budgeting – both for merger and revision of whole of organisational budgets.
    b. Revision or development of strategic plans.
    c. Revision of programs and services.
    d. Development of communications plans to communicate the merger to clients, staff, members and other stakeholders.
    e. Revision of organisational structure and HR policies.
    f. Development of implementation plans for the merger.
11. Post-merger integration and evaluation. Full implementation of a merger can take months or years to complete, depending on the size of the organisations involved, the complexity of services, HR issues and other factors. As per the merger plan, the implementation, costs and strategic goals of the merger should be evaluated and reported to the board.

Factors critical to success

- The merger supports the organisation(s) to achieve their strategic goals.
- Value is created for beneficiaries.
- The specific strategic goals of merger, such as increased market share and improved efficiency, are achieved.
- An experienced merger team, including skilled advisors.

- Sufficient financial reserves or access to capital to purchase and transfer the assets and to undertake effective integration.
- Effective communication and change management planning and execution.
- Strong project management of the merger and integration.
- Value is not lost from either organisation during the merger process.

How do you measure success?

The main measure of success is if the merger achieves the objectives identified in the planning and due diligence stages. It may be months or even years before this can be determined in some cases.

Other possible options

Organic growth or acquisitions.

Advantages and disadvantages

Advantages

- Mergers can achieve faster and more effective growth than organic growth or growth through acquisition.
- Merged organisations may be able to provide better services at lower prices than the pre-merger organisations.
- Larger organisations may attract more funding and support from governments and donors.

Disadvantages

- Mergers are risky, expensive and complex. There is no guarantee that the resulting organisation will achieve the strategic goals intended by the pre-merger organisations.
- Merger activity may detract from the day-to-day operations of the organisation.
- Mergers may reduce choice of supplier for service users and beneficiaries.

A key activity common to all strategic restructuring activities: Due Diligence[75]

Due diligence is (for most boards) a legal requirement for the board and the senior executive of the organisation. Directors and senior executives are required to ensure that the decisions they take that have a material impact on the organisation are made with an appropriate level of care and are in the best interests of members. Directors must demonstrate that they understand the organisation, its operating environment and that they have employed an ‘enquiring mind’ in undertaking their duties.

For any form of strategic restructuring, the board and senior executive of each organisation involved must undertake sufficient investigation to identify any problems or risks that will materially affect the prospects of a successful outcome. These should include risks to achieving the objectives of the strategic restructuring, such as improving efficiency.

Due diligence is a therefore a key aspect of all collaborations and strategic restructuring. It is complex and will vary from transaction to transaction and from organisation to organisation. The information provided here is descriptive only and should not be used to make decisions. You will need professional advice, such as from lawyers, accountants, human resource specialists and others, before making any decisions. For legal reasons, we are not going into the definition of due diligence. Instead, we direct you to the description of due diligence included in the Corporations Act 2001.

This section outlines some of basic elements of due diligence, so you have a basic understanding of what is involved. If the process of due diligence is new to you, it can look daunting, but it becomes simpler with practice and with support from professionals.

Our key advice is to get professional advice each time you undertake a collaboration or strategic restructuring that could have a material impact on the organisation. It is very difficult to be objective otherwise, and even professional advisors can become influenced by biases.

There are many books and free publications by law firms and accountants that outline the key steps to undertake due diligence and the areas that should be investigated. Most of these lay out the same step-by-step approach. References to some of these are provided at the end of this guide. This section outlines the steps most commonly described in these publications.

Step 1: Planning[76]

To start, due diligence for a major strategic restructuring can be a lengthy, complex and costly process, so most professionals will advise you to make a plan. This plan should include:

- Who you will involve and their roles.
- What they will investigate and to what depth.
- Timing of investigations.
- Management and oversight.
- Costs

It can be useful to get advice from a professional even at this planning stage.

Step 2: Preparation[77]

Professional advisors will likely recommend that you and the other parties involved sign a Memorandum of Understanding (MOU) with the organisation(s) you are transacting with. This may include a confidentiality agreement. If not, this should also be prepared and agreed upon.

In addition, depending on the size of the transaction, you may wish to establish a team within the senior executive to oversee and undertake the investigations, and/or a subcommittee of the board that will oversee the process. In some cases, such as for a merger, the two boards will agree to establish a joint committee, comprising directors and senior executives from both organisations.

The usual next step is the development of due diligence checklists that describe the tasks to be undertaken and timings of these tasks. Both sides then prepare data requests. These typically include information on organisational structure, sales, finances, staff, contracts and leases. Assets and liabilities are listed,

[75] Corresponds with Video 'Due Diligence -Due Diligence Intro'

[76] Corresponds with Video 'Due Diligence -Planning'

[77] Corresponds with Video 'Due Diligence -Communication to staff and stakeholders'

including intellectual property, contracts, tax issues and other matters. Given the quantity of data that may be required by both sides, particularly for a merger, it is good practice to determine a system for sorting, documenting and storing data as it is collected and analysed.

A key issue that should be addressed early is communication to staff and stakeholders. Both sides will need to decide on when and how they will inform staff and stakeholders, such as clients, members, funders, suppliers, unions and others. If the decision is taken to keep the transaction confidential, then protocols must be established to achieve this. If it is decided to inform staff and stakeholders, then planning and executing this communication is essential. There have been many cases of strategic restructurings that were derailed due to poor communication and subsequent backlash from stakeholders.

Step 3: Due Diligence Investigations[78]

The process of due diligence investigations is often undertaken in rounds, in order to flush out any deal breaker issues before investigations go too far. Many of these are not financial or performance issues. For mergers, some of the other key reasons discussions stall or fail is due to a failure to:

1. Agree on branding for the future organisation. If both organisations want to retain their brand and neither is prepared to compromise, this can terminate the deal.
2. Decide how the board and senior executive positions will be filled in the new organisation. It is likely that one or both CEOs and possibly some senior executives will lose their job in a merger. It is best if these key issues are addressed early so that everyone knows where they stand in the organisation post-merger.
3. Agree on board structure and positions. Similar to the senior executive, some directors and at least one chair will lose their position. It is best to agree on the new governance model and positions early.

[78] Corresponds with Video 'Due Diligence -CEO, Board and Executive Positions'

4. Resolve issues related to the head office location and major assets. In some cases, organisations have landmark properties that they wish to retain.

It is not possible to provide a definitive list of the areas to be covered in every due diligence investigation, but it can be expected that the following would be considered in nearly all significant strategic restructuring activities.

Strategic Alignment and Risk[79]

The first question to consider is: will this transaction support the achievement of your strategic goals? The idea of a large transaction or merger, particularly an opportunistic one that comes about due to a ‘distressed sale’ or service privatisation, can be so appealing that boards and senior executives fail to really consider if it is the best way to achieve their organisation’s mission. In some cases, the acquisition or merger may take the organisation away from its core strengths and mission, reducing rather than enhancing its capacity.

Strategic restructuring, particularly mergers is expensive and risky, and should only be undertaken if there is a compelling case. This requires clearly defining the strategic goals and outcomes to be achieved and when. Each transaction should be considered in its individual merits can compared with the alternatives outlined above.

Cultural Fit[80]

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[79] Corresponds with Video ‘Due Diligence -Goal Achievement’

[80] Corresponds with Video ‘Due Diligence -Cultural Fit’

Cultural fit or 'cultural due diligence' can be a complex process. In the heat of a merger or strategic restructuring, it is easy to overlook some fundamental differences in values or approach that will either stop the transaction before completion or make cultural alignment very difficult to achieve post-merger.

Organisation culture is the values, attitudes and behaviours that drive the psychological environment of the organisation, and the behaviour of staff and board. It includes expectations, beliefs, customs, communication styles, reward systems and other aspects developed in an organisation over time.

It is rare for two organisations to have completely compatible cultures, so it is likely that both will need to make some adjustments. However, the impact of misaligned cultures can be significant and costly. There are many examples of post-merger organisations in which staff still identify with their pre-merger cohort. Failure to align organisational culture can significantly impact anticipated gains in productivity.

Cultural due diligence can be one of the most difficult elements of the evaluation process. For a small organisation, it is a matter of considering the values and principles of the organisation; and how these have been exhibited in dealings with clients, staff, stakeholders and others, and determining if your organisation would have likely taken the same actions. There are questionnaires and other tools that you can access that provide a framework for a simple cultural evaluation. It is also be a good idea to ask stakeholders, such as clients, funders or even suppliers, who know both organisations well, for their opinions.

For larger organisations, it is worth seeking an independent assessment by specialist organisational psychologists. The differing use of titles; performance measurement; and even traditional events, such as Christmas parties; can become major problems if they are not identified and addressed. We have heard stories of mergers stalling because the organisations involved served different types of biscuits in the staff room.

As part of the communication plan, the merger team should consider 'inoculating' everyone about the change in culture they may have to absorb. That is, it can be better to overstate rather than understate the changes coming, and the need to give up some aspects of existing culture to build an organisation better able to meet the needs of beneficiaries. That way, staff and stakeholders are ready for changes as they arise and can consider them within an appropriate context.

Market and Services[81]

This aspect of due diligence involves examining the markets and beneficiaries served by both organisations to determine the impact of the transaction.

Ideally, 'one and one can equal two — or three' if a merger results in the post-merger organisation reaching a wider customer base and/or providing more services. However, if both organisations are providing similar services to similar clients, or if clients are lost to your competitors during the merger, then the capacity of one or both organisations is diminished during a merger. That is, 'one plus one can equal one and a half'. An important part of the due diligence process is determining the size of the potential market and estimating sales for the post-merger organisation.

External Stakeholders[82]

It is very important to consider the impact of any strategic restructuring on all external stakeholders that may have an interest in or be impacted by the strategic restructuring. Organisations that have contracts for service with government agencies will need to ensure that any merger does not threaten their relationships with those agencies or funding arrangements. Those that rely heavily on donations from the public or a small number of philanthropists will want to ensure that the merger is well supported by those stakeholders.

Human Resources[83]

For most NFPs, staff costs represent approximately 70% of total expenses. In a merger, this should be a key source of improved productivity. There are many elements of HR that need to be considered, including designing the post-merger organisational

[81] Corresponds with Video 'Due Diligence -Market and Services'

[82] Corresponds with Video 'Due Diligence -Stakeholder'

[83] Corresponds with Video 'Due Diligence -Human Resource'

structure and identifying the potential for savings in support, administrative and executive roles. If there are no savings in staff costs or if these savings do not exceed the cost of redundancies, then there must be other compelling reasons to merge. It is also very important to consider employment contracts, enterprise bargaining agreements, union and other industrial relations issues. To merge effectively, any differences between employment conditions and staff expectations will need to be harmonised soon after the merger, and these can be a major sticking point. Both prior to and after the merger, costs will be involved for communication, change management, staff training and recruitment. These costs need to be identified and included in budgets.

Financial Evaluation[84]

Financial due diligence involves looking at the historical financial performance of both, or all organisations, and forecasting the future performance of the post-merger organisation. This will involve making assumptions and estimates about future trading conditions and costs. These can be quite subjective, so it is important that the board and senior executive understand and agree on these assumptions with the team undertaking the financial due diligence. Alternative scenarios should be forecasted, and sensitivity analyses should be undertaken.

The merger process itself absorbs resources from the provision of services. The longer it takes to achieve full integration, the later the realisation of any financial gains. Therefore, in addition to higher than forecast strategic restructuring expenses and lower than forecast gains, another factor that should be examined is the impact of later-than-forecast gains in profit.

Other than for the simplest transaction, financial due diligence must be undertaken by professional accountants. In the case of a sale or purchase of assets or operations, accountants may also be involved in the valuation and structuring of the transaction.

Legal and Taxation[85]

[84] Corresponds with Video ‘Due Diligence -Financial’

[85] Corresponds with Video ‘Due Diligence -Legal and Taxation’

Legal and taxation due diligence involves undertaking a comprehensive examination of the legal framework and risks of each organisation. Even the smallest organisations are likely to have: a lease for premises, equipment, vehicles, employment contracts and other legal obligations. They may also have contracts to buy or provide services.

Legal advisors should look at the full range of legal issues, including ownership of assets and obligations to third parties. These include banks or other lenders when the transaction impacts loan agreements or may breach covenants.

If a new organisation is created or an organisation is closed, then lawyers will be required to advise on the legal implications of these transactions, including on the drafting of new constitutions, and on obligations to inform or gain the approval of regulators and other agencies, including ATO. There will also be legal issues regarding the various contractual agreements between the two or more merging organisations, and between buyers and sellers, starting with the MOU.

Technology[86]

Technological due diligence examines the information and other technology used by the organisations to determine what can be retained, what will be shelved and what can be joined. For example, this may include accounting and payroll systems, client databases and other information systems. These can be very complex and costly to integrate or replace. In other cases, technology may be integral for the delivery of service. Whether and how these will be harmonised or replaced needs to be considered.

Regulatory[87]

Regulatory due diligence involves considering the impact on relationships with regulators, such as the Australian Charities and Not-for-profits Commission (ACNC); local and state government organisations; and industry regulators, such as those in education, health, disability and other sectors that set and monitor compliance

[86] Corresponds with Video ‘Due Diligence -Technology’

[87] Corresponds with Video ‘Due Diligence -Regulatory’

obligations and standards. In some cases, it may only be necessary to inform regulators, and in others their approval may be required. It may even be necessary contact the Australian Competition and Consumer Commission (ACCC) if the merger is large enough to raise concerns about market control.

Module 6: Summary and Next Steps[88]

This study guide is designed to accompany the video tutorial and Excel tool that are available for download from the website.

In this course, we have introduced you to some of the key issues that boards and senior executives should be thinking about when it comes to collaborating with other organisations or undertaking large-scale strategic restructuring.

Module 1: Context and Principles. This module provided information on the extent of collaborations and strategic restructuring and presented five key principles for your organisation to consider.

Module 2: Strategic Planning. This module provided a summary of the need for good strategic planning and how to approach it.

Module 3: Language of Collaborations and Strategic Restructuring. To facilitate the development of a common understanding of collaborations and strategic restructuring, this section provided a glossary of key terms.

Module 4: Collaborations 'Menu'. This module provided a list of the key types of collaborative activities that organisations can undertake.

Module 5: Strategic Restructuring. This module provided a summary of the key types of strategic restructuring organisations can undertake, when they are used, and critical factors for their success. This module also included a summary of the due diligence process.

Next steps

This course was designed to help leadership teams increase their knowledge and understanding of collaboration and strategic restructuring options, provide some guidance on the evaluation of these and list additional sources of information.

If you have undertaken this course on your own, then we suggest that you organise to meet as the board or senior executive and discuss the content of this course, starting with Module 1, and determine if your organisation should be reviewing or improving your collaboration

[88] Corresponds with Video 'Conclusion -Summary'

activities or examining options for strategic restructuring that would enable your organisation to become more effective and efficient in providing services to beneficiaries.

We hope that this course will inspire you to build better, stronger and more effective NFPs.

Resources

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