Mergers: A Strategic Option – Desired or Otherwise

There is a strong history and growing trend of collaborative working within the arts sector, ranging from sharing resources, project working to formal mergers. This article will look at mergers, particularly on the why and the how.

When organisations develop strategic plans, collaborative working and mergers are a legitimate strategic option to improve their strategic capability (the ability, or otherwise, of the organisation to pursue their chosen strategy). Additional pressures such as the economic climate, anticipated outcome of the spending review and the government's view will probably mean that mergers become more of an 'option' - The Minister for Culture, Ed Vaizey stated earlier this year that he wondered if "…there might be scope to strengthen the sector by more co-ordination or possibly mergers" - it is interesting to note that Mergers were one of the agenda items at the first Culture Forum meeting on 27 July 2010.

Mergers can produce a number of benefits for organisations and their beneficiaries, as well as a number of challenges. Some of the more commonly quoted benefits include more effective management; risk reduction; economies of scale; improved service delivery; increased organisational profile; additional income sources and increased capacity.

The main stages involved will be (a) initial consideration of the merger; (b) a due diligence exercise; (c) managing the merger, a process that is sometimes referred to as 'change management '.

The consideration of the merger will include the preparation of the business case for merger, and if it is the right strategic option for those involved. Some of the many other issues to be evaluated include compatibility of organisational vision, values and mission; risks and impact; compatibility of the respective constitutions and governing documents; choice of legal structure and the new name for the entity; selection and choice of trustees, management and staff; incompatibility of IT systems; required resources and required consent if a members organisation.

Mergers can expose organisations to a range of risks & additional liabilities and an effective due diligence exercise can identify risks prior to any formal merger agreement. Because of the sensitivity of the information that will be disclosed it is normal practice for all parties to have formal confidentiality agreements in place, these will be especially important if the proposed merger does not proceed. A due diligence exercise should be carried out as soon as the principle for a merger has been agreed.

The areas covered by a due diligence exercise will be (a) financial; (b) legal; (c) organisational. Financial due diligence will examine, amongst other matters, an organisations financial health; its reporting systems; security and stability of funding; liabilities and covenants; pension schemes; insurance cover and accounting policies. Legal due diligence will examine, amongst other matters, powers within governing documents; nature and form of new organisation; TUPE; existing contracts; selection and appointment of trustees. Organisational due diligence will examine, amongst other matters, rationale for merger; positional analysis using (say) SWOT and compatibility of IT systems and culture.

Strategic change tends to create anxiety and concern amongst stakeholders, including employees, management, client groups, funders and trustees. Individuals influence strategy through their behaviour and competence. A number of the problems that arise from managing change result from a failure to understand, address and alter behaviour.

At the start of the process effective communication and involvement with all stakeholders is critical, transparency, openness, trust and integrity needs to be at the heart of the merger process. The directors/trustees and senior management team need to all agree that the merger is the best strategic choice.

There will be a level of fear and concerns over the proposal, which will include of a loss of autonomy and identity, job security and loss of status. Open and frank discussions at an early stage are critical, this helps clarify misunderstandings, maintain motivation, minimises anxiety and contributes to an organisation that will be fitter for purpose.

If a merger is to go ahead it is accepted practice to appoint the Chief Executive of the merged organisation at an early stage. This will provide focus and clarity to the leadership of the organisation. Obviously this recruitment and selection process should be open, transparent and fair.

One of the decisions to be made is the involvement of external advisor's in the merger process. There is plenty of expertise and talent (latent or otherwise) within arts organisations to lead and involve themselves in the process, for example in the preparation of the business case and evaluation of the due diligence documentation. External advisor's have their part to play in the management and facilitation of some aspects of the merger process, for example in change management, risk and financial analysis.

Mergers as an ‘option’ will become more prominent, if there is a good business case and the process is handled correctly, then organisational capability and strength will improve.

This article first appeared in Arts Professional