

Report on cross boundary working for Age Concern, the federation

Introduction

The new tendering requirements for public service contracts implemented in 2006 pose particular challenges for Age Concern, the federation. The federation is the second largest provider of public services to older people after the State. This puts us in an excellent position to bid for and win contracts; however, we will face increased competition from both other charities and the commercial sector. One particular issue for the federation is that of collaboration. A paper was presented to the Assembly in July 2007 which raised some of the main points, pointing out that

“Local and health authorities are opening contracts to tender which cover geographical areas that do not match the traditional areas of operation of many Age Concerns. It is important for Age Concern to clarify how it can best respond to such opportunities and avoid the loss of contracts to other voluntary or commercial organisations” “Collaboration between Age Concerns in service delivery” Paper to Age Concern Assembly July 2007

This paper was further discussed in the federation and will be issued in December as good practice guidance, effective from January 2008.

The report below sets out:

1. The policy and legislative context around tendering within which Age Concern, the federation must work
2. General issues around collaborative working
3. Some models and case studies of collaborative working
4. Proposals for moving forward.

Context

By 2010, all public service contracts worth over £145,000 have to go out to tender. The EU Public Procurement Directive 2004/18/EC sets out the legal framework within which all public procurement must be undertaken. This Directive has been transposed into national law within the UK through THE PUBLIC CONTRACT REGULATIONS SI 2006 NO.5
http://www.opsi.gov.uk/si/si2006/ukSI_20060005_en.pdf

European Union (EU) Procurement Policy and Rules

EU legislation governs all public sector procurement contracts in the UK, regardless of value. There are four fundamental principles which govern public procurement that public sector bodies must consider and apply when purchasing from third parties:

Equal treatment - suppliers are entitled to equal and fair treatment at every stage of a contract award procedure.

Transparency - information about contracts and the rules to be applied should be available to all interested candidates. The rules that will be applied in assessing applications for tender lists and the criteria for selection should be clearly advertised.

Proportionality - the demands placed on providers should be both relevant and directly related to the contract being awarded.

Mutual recognition - this requires that the standards, specifications and qualifications in use throughout the EU receive equal recognition to ensure services are suitable for their intended purpose.

Categories of goods and services

There are three main categories of goods and services: service, supplies and works. Most Age Concern activity will fall under Part B of service contracts (see below for more information). As different requirements, rules and thresholds apply, Age Concerns need to understand where their services or products fit in.

1. Service contracts: are divided into two categories known as Part A ('priority') or Part B ('residual'). The full tendering regime applies only to Part A services; *however* the principles listed above of equal treatment, transparency, proportionality and mutual recognition will *always* apply. In practice, many Local Authorities are applying the full regime to Part B services as well.

Examples of Part A service contracts: Computer support, engineering, financial services, maintenance or repair, management consultancy, market research.

Examples of Part B service contracts: leisure services, legal services, social services and healthcare, educational and vocational services. This is where most Age Concern activity will fall.

2. Supplies contracts: those involving the purchase, lease, rental or hire purchase of goods or products.
3. Works contracts: these are broadly construction related.

If a public body is purchasing a mixture of services and supplies in one contract, then it will be subject to the rules of the dominant part.

Financial thresholds

Financial thresholds determine whether a contract, or a group of contracts, is subject to European Union procurement directives. If the value of a single contract or series of contracts, for goods and services of a similar type exceeds these thresholds then the purchaser must comply with the procedures laid down in the relevant directive.

The value of thresholds is defined using Euro currency. The equivalent value in other currencies is based in fixed values, calculated every two years by the European Commission, which are published in the C Series of the Official Journal (OJEU). In January 2006 the current thresholds were set at:

	Supplies	Services	Works
Central Government			
authorities	£93,738	£93,738*	£3,611,319
Other public			
authorities	£144,371	£144,371	£3,611,319

*With the exception of Part B services, which have a threshold of £144,371

At the local level

Many contracts are awarded at the local level. One of the challenging aspects of this is that local public sector organisations often have varying internal procedures about how they purchase services below the EU thresholds. In practice most local authorities are tendering out services that fall below the threshold using the same process as they use for those above the threshold. The continuing drive to efficiency through Best Value and the work of the Office of Government Commerce means that local authorities have to look at how their procurement strategy encourages

- Continuous improvement in services.
- Increasing emphasis on delivering outcomes that will improve community well-being, without prescription of how this can be achieved.
- Focus on mainstreaming 'equalities' with the potential for voluntary and community organisations to add value through their experience.
- Considerations of sustainable development with a longer-term view of 'whole life costs' as the basis for Best Value decisions.

The potential impact of this on the federation is huge. Most Age Concerns rely heavily on local authorities for the bulk of their funding. Contracts for services like day care, hospital aftercare, direct payments support, information & advice – activities which form the staple part of most Age Concerns work - will all go out to

competitive tender. Age Concerns will need to consider new structures and ways of working if they are to survive and thrive in this new environment.

Collaborative working

"...all charities should consider seriously and imaginatively whether there are ways in which they could do more and better for their users by working together." Charity Commission, Collaborative Working and Mergers (RS4) 2003

"Collaborative advantage will be achieved when an objective is met which no organisation could have produced on its own and when each organisation is able to achieve its own objectives better than it could alone." Huxham and Vangen, 2005

Age Concerns have a strong track record of working together with other Age Concerns, with other third sector organisations and in some cases with commercial organisations. However, these partnerships have often been fairly informal, relying on local contacts, trust, goodwill and personal relationships. Even where written agreements do exist, they are often quite informal and do not have any real legal status. The federation encourages collaborative working between Age Concerns and has produced guidance about this, which will be effective from January 2008.

The requirements of tendering mean that an informal approach will no longer be sufficient. The procurement officers buying the service will want to know:

- Who is legally responsible for ensuring the delivery of the contracted service?
- Who "owns the risk" for the service?
- Who is legally accountable if the service fails to deliver the required outcomes/targets?

Age Concerns need to ensure that when they collaborate with one or more other organisations, these questions can be answered clearly both for their own benefit and those purchasing the service.

Age Concerns should also be aware that a question has been raised over whether creating partnerships or consortia to bid for tenders is in breach of competition law. Janet Roberts, director of Tendering for Care, which advises voluntary organisations on procurement, wrote to the umbrella body NAVCA warning that its members could fall foul of European law by working together and effectively fixing prices. NAVCA wrote to the Office of the Third Sector, which advised that there was a theoretical risk of consortia creating a cartel or monopoly in breach of European competition law, but no example of this happening. It said charities should continue working in partnership.

The Office of the Third Sector said it continued to support the principle of partnership working where it enabled organisations to deliver a better service. In its letter to

NAVCA, it said: "Theoretically, where a consortium in a specific locality created a monopoly or cartel situation which distorted fair competition, this may be in breach of EU competition law."

"There may also be another issue around state aid, where the consortium may have been in receipt of technical assistance to devise the bid. However, we are not aware of any example of this ever happening."

Age Concerns should note that the Office of the Third Sector is saying that there is a theoretical risk and that *so far* there has not been a legal challenge to whether local consortia create a monopoly or to whether it constitutes receiving state aid in the form of technical assistance around bids. This does not mean that a legal challenge may not happen in the future.

The process

To put together a new legal entity or consortium able to bid for tenders is unlikely to take less than 6 months. All the Age Concerns which feature as case studies have highlighted that the process is almost as important as the outcome and should not be rushed. Generally speaking, Age Concerns should expect that they will need to

- Form a steering group made up of trustees and officers
- Involve a third party to act as facilitator/mediator – in some cases this has been ACE field officers/Regional Operations staff, while other organisations have brought in an independent consultant
- Spend significant time communicating with staff and other stakeholders, keeping them informed and up to date and ensuring that inaccurate and misleading information and rumour is dealt with quickly.
- Agree processes for decision making and conflict resolution
- Commit some financial resources – this will be dependent on the type of structure being set up

Different models for working collaboratively

Co-operatives

A co-operative is democratically run by its members with each member having one vote at general meetings. Some co-ops allow profits to be distributed to members; others are set up on a not-for-profit basis where the profit is put back into the business. An Industrial and Provident Society (IPS) is an organisation conducting an

industry, business or trade, either as a co-operative or for the benefit of the community, and is registered under the Industrial and Provident Societies Act 1965.

The advantages of co-operatives are:

- Equal voting rights
- The advantages of incorporation: limited liability, legal personality, permanent succession, right to own property
- Fewer legislative requirements
- Less public disclosure
- Less risk of fines and prosecution than for companies under company law
- Charitable IPSs have tax advantages without having to register with the Charity Commission (they register with the Inland Revenue which is quicker and simpler) ICOM, the Industrial Common Ownership Movement, publishes models of different forms of governing document for co-operatives

The disadvantages of co-operatives are:

- Conflict of interest between the members making up the co-op and the co-op as a whole
- IPS is not a corporate structure familiar to funders
- Must have at least three members
- Must be democratic - no places for outside organisations on the governing body

Case Study – Age Concerns in Lincolnshire

Lincolnshire is a large rural county, similar in size to Northern Ireland, and is very sparsely populated. Lincolnshire has an older than average population, with a lot of people moving into the county in their 50s and many young people leaving in search of opportunity. This brings with it a number of challenges as many older people have few support networks available to them when the need arises.

Lincolnshire has 5 Age Concerns, all large Groups that have a strong history of service provision. The three PCTs were recently amalgamated under the NHS restructure, to form a single county-wide PCT. Lincolnshire has a two-tier local authority system with a county council and seven district councils.

In 2006 the Age Concerns were asked, by the then Chief Executive of 2 of the 3 PCTs, what contribution they could make to the admission avoidance agenda. At

the same time pressure was coming from the County Council to provide a more consistent service across the county. There was some irony with this approach: historically the local authorities' practice has been to divide and conquer. The result has been services that are fragmented and contracts that have very variable rates of pay for similar services.

The Age Concerns were supported by Age Concern England and the Care Services Improvement Partnership to look at all the options available to them, in order to deliver services jointly across the county. The Age Concerns decided to explore in more depth a Community Interest Company (CIC) and a formal co-operative. After exploring all of the pros and cons it was decided to go with the latter. Age Concern Lincoln decided at this stage not to become part of the co-operative but recognised that this may lead to competition for services within Lincoln.

The advantages of the co-operative approach were considered to be:

- It provides a legal entity for contracting*
- All members have equal voting rights and shares of profits*
- All Age Concerns can retain independent boards and structures but come together to provide services when appropriate*

The co-operative has been registered (at a cost of around £600) and can now trade. Local commissioners have expressed their satisfaction with this approach and a number of meetings have been held to look at future commissioning of new services via the co-operative. It is likely, in the future, that the county council will wish the co-op to tender to provide existing Age Concern services, rather than individual Age Concerns. Age Concerns have put bids in to both ACE and Lloyds TSB Foundation to bring in a development lead. This person will liaise with commissioners and the post will become self sustaining through increased revenue. In forming the co-op it was left as an option for Age Concern Lincoln to join at a later date. Discussions are starting regarding them becoming part of the co-operative in the near future.

For more information on the Lincolnshire Co-operative contact Val Vowles, Age Concern Kesteven 01529 302843

Jointly Owned Company

Age Concerns can come together with other Age Concerns or other organisations to form a jointly owned company. The advantages of this are:

- To widen its area of operation: Any charity with a defined area of benefit in its constitution can provide services or carry out activities only within that 'area of benefit'. For most Age Concerns this is either 'in' or 'in and around' the area described in its name. A trading company is not a charity and would not

normally be so restricted, so it is usually registered to operate anywhere within the UK.

- To provide a single point of contact for contractors over a wider area. Although it is difficult to be precise about how services will be commissioned in future, it would be prudent to assume that commissioners are likely to want to deal with fewer suppliers of services and to commission services across larger areas. In addition more services are likely to be commissioned jointly by Social Services and PCTs.
- Flexibility in response to changes in manner of funding: core funding from Social Services has all but disappeared and competitive tendering will be the main way large scale funding is accessed. The numbers of older people living with long term conditions is set to rise, but central government expenditure on social care is not projected to increase at the same rate. Therefore it is increasingly likely that services will be bought by individuals, either using Direct Payments or their own resources.
- Economies of scale: there are a number of management and admin functions which all provider organisations need e.g. operational management, financial management, HR and, in some cases, regulatory compliance. If charities were to form a jointly owned company which provided these functions it may be possible either to cut the cost, or to reconfigure the current level of expenditure differently to achieve better quality outcomes.
- Continuity of services for older people: charities often face threats to their funding, some so severe that doubt is cast on their capacity to continue. If there were a jointly owned company which covered the area of benefit it would be comparatively simple for a neighbouring Age Concern to step in, by agreement, and offer continuity of some services.

Deciding which structure of jointly owned company to use will depend on the particular circumstances and issues faced by the Age Concerns involved.

For more information on establishing a jointly owned company see

Guidance for Two or More Age Concerns Establishing a Jointly Owned Company – Liz Barker, ACE: available on *acknowledge*

Joint Venture Agreement Guidance for Age Concerns Presentation London Regional Meeting June 2007 Liz Barker, ACE: – available on *acknowledge*

A sample memorandum and articles for a jointly owned company and joint venture agreement is shortly to be produced by Bill Prouse of the ACE Legal Unit

Case Study – jointly owned company Age Concerns Tower Hamlets, Newham and Hackney

This is the first and so far only jointly owned trading company within the federation. Staff and trustees from Age Concerns Newham, Hackney and Tower Hamlets have worked with staff from ACE Regional Fieldwork, Legal Unit and Finance Division to develop a Joint Venture Agreement (JVA). The company will be a trading company jointly owned by the three charities each of which will be an equal shareholder. This agreement sets out how the relationship between the three charities and the company, and between the three charities in matters concerning the company, will work. Discussion of the joint venture agreement has been carried out in a series of meetings over a period of six months. All meetings have involved the Chief Officers of the charities, some have involved finance officers who have worked in parallel on developing a business plan for the company. All meetings have involved ACE's Legal Unit and assistance has been given by ACE's Finance Director. Midway through the process a meeting of trustees of all three organisations was held in order to update them, and seek their advice, on key issues. That was an important part of the process. The final agreement will have to be approved by each board of trustees separately.

This is the first time this process has been undertaken in Age Concern, and it was always intended to provide guidance for other Members of the federation. It is therefore anticipated that similar exercises in future would be much quicker. However, each Age Concern will still have to set aside sufficient time to ensure that whatever agreement is reached is suitable for what they want to do. That said, the model of delegating detailed consideration to a small working group which can call upon professional expertise as and when necessary is worth replicating. Furthermore, keeping trustees of the parent charities informed of major issues is recommended. In addition, it would be wise not to expect Finance Officers to make an input during the period April to June when they are busy with audits.

For more information contact

Sue McCarthy Age Concern Newham 0208 503 4800

Debbie Walker Age Concern Tower Hamlets 0208 981 7124

Olexandra Stepanuik Age Concern Hackney 0207 249 7149

Mergers

Some Age Concerns may consider that, by coming together with other Age Concerns, they will form a stronger single entity than they could be through operating separately. Mergers are time consuming and complex involving trustees, staff, volunteers and professional advice from solicitors and financial specialists. There is pressure on some Age Concerns from funders to merge to reduce the level of

overhead costs (e.g. reducing the number of staff, reducing rental expenditure) and so that they will be able to deal with one larger body covering a larger area. However this should not be the sole reason for a decision to merge. It should be borne in mind that a merger will not always result in increased funding and it cannot be guaranteed that the loyalty of supporters will follow the merger.

Pros of a merger

- Increased services available to older people. By coming together Age Concerns can provide services over a wider area than they did before and extend existing services into new areas.
- More efficient use of resources. With funding ever harder to come by, merging can achieve savings in the long term by reducing the level of overheads e.g. one head office instead of two, staff numbers may also reduce and the costs of insurance, auditing, etc may also come down.
- Continuity. A merger can sometimes enable a small Age Concern to survive in an area where it would otherwise go under if it did not become part of a larger organisation.
- Attractive to funders. Funders like to see their resources being used as effectively and efficiently as possible.
- Opens up new funding options e.g. a number of Age Concerns coming together in a county could access county-wide funding.
- Increased profile and influence

Cons of a merger

- Mergers take a lot of time, resources and energy, all of which will need to be found in addition to those required to running the organisation.
- Staff particularly find mergers very stressful and could leave, resulting in the organisation being unable to deliver services to the same level as before.
- In the short term, few savings will be achieved because of the costs of merging.
- Funders may not be supportive, especially local funders who prefer to deal with a “local” organisation.

Mergers can take a variety of forms. The most common types are:

Full merger: Both / all organisations transfer their staff, assets and activities to a new organisation with similar objectives and then the original organisations wind up.

Absorption: Organisation A continues, perhaps with some adaptations of its name and structure. Organisation B (and C etc) transfers its staff, assets and activities to Organisation A and then winds up.

Age Concerns will need to check whether their governing document includes a power to merge or a dissolution clause. If merger is not mentioned or if you are uncertain whether it is permitted, seek advice from the Charity Commission or a solicitor. You may have an obligation to consult your members about a proposed merger.

Planning a merger

A merger typically passes through a number of stages. Planning ahead and setting a timetable is crucial to ensure the process goes smoothly. Use professional advice – you will need a solicitor and may find a neutral facilitator helpful during discussions.

Once you have decided to merge, it is useful to create a small steering group comprising the chairs of the merging organisations, at least one other trustee from each organisation and each organisation's chief executive, in addition to any advisors or consultants. In large organisations, other senior staff may be included. An implementation group of staff can act on decisions taken by the steering group and will get future colleagues starting to work together.

Set a target date for merging, then start working to make it happen. Delay in getting going may make the merger process harder. The process is time consuming. Time costs money and if staff are working on merger they are not working on their ongoing tasks. Set a budget for the merger which includes costs such as staff time, legal and professional fees, relocation costs and redundancy payments.

Due Diligence

It is very important that Age Concerns considering merging do their 'due diligence' early on. Due diligence is the exercise which unearths the information that organisations need so that they can decide whether to go ahead with merger. The scope of due diligence varies according to the size and complexity of the organisations involved. Some organisations carry out due diligence themselves. In other cases, professionals working for each organisation examine the others to ensure that they fully understand how a potential merger partner works and to identify any risks, liabilities or other issues which could derail the merged organisation.

Due diligence looks at areas including:

- current financial position & future viability of the merged organisation
- property ownership & occupation

- assets, eg. restricted funds or permanent endowment
- income sources, eg. committed giving, grant funding, contracts held or under negotiation
- employment practice
- policies & procedures

Sometimes merger takes place to enable an organisation in financial difficulties to survive so that its services for beneficiaries continue. Efficiency gains are made through sharing a back office. It is vital that due diligence uncovers both the scale of any financial problems and whether they are:

- the result of an unexpected or historic and non-recurring problem
- symptomatic of long-term problems such as inadequate funding or high costs
- uncertain and potentially more extensive than initially indicated

It may be possible to overcome such problems with additional funds or by adopting a form of group structure which creates a firewall between an organisation with associated risks and its parent organisation. Where an organisation that is being taken over has a pension deficit, this is a liability which could mean a major outlay for the merged organisation. Professional advice should be taken.

For more information on mergers see:

NCVO: *Merger: a model of collaborative working*

ACE: *Joining forces – a guide to mergers in Age Concern*

Case Study – Age Concern Leicester & Age Concern Leicestershire & Rutland

Age Concern Leicester and Age Concern Leicestershire & Rutland are two of the larger Organisations within the federation. Age Concern Leicester turns over approximately £1.6 million and Age Concern Leicestershire & Rutland turns over approximately £6 million.

The Chief Officers and Trustees of Age Concern Leicester and Age Concern Leicestershire & Rutland were aware that, with the new tendering directives, there would be changes coming to how contracts would be awarded and that, in an increasingly competitive marketplace, competitive advantage would be key. It was also apparent that older people did not differentiate between the two Organisations even though they provide different services.

Bringing the two Organisations together would

- Provide older people with an improved range of services*
- Increase opportunities to access money available across both Leicester unitary authority and Leicestershire and Rutland County Councils.*
- Enable efficiency savings*
- Increase influence over commissioning and campaigning*

Process

A steering committee was formed made up of trustees from both Organisations plus the two Chief Officers and Finance Managers. Support was provided at the outset by Simon Main, ACE Field Officer. This was very useful as it kept the steering group focused on the central issue of why the organisations were doing what they were doing and looking at the pros and cons.

The two Organisations did consider forming a joint trading company but felt that this would send out the wrong signals to funders and provoke more questions. They also felt that funders would not like an operating company that has two sets of trustees because the accountability would be unclear. However funders are supportive of what the two Age Concerns are doing and are giving them time.

Communication has been absolutely crucial: without it rumours fly and staff and trustees get unhappy, suspicious and demotivated. A staff consultative group was set up, which meets regularly to be updated. Open briefing sessions are held which any staff can attend and there is an update in the monthly newsletter. Staff have been guaranteed that there will be no redundancies as a result of the merger for 3 years. The Organisations are working to bring together operating policies and procedures and two Age Concern Leicester staff have been seconded to Age Concern Leicester Shire & Rutland.

Spanner in the works

However a major problem has been encountered in the merger process that other Age Concerns considering a similar move should be aware of.

Age Concern Leicester has its staff pensions with the Pensions Trust, a multi-employer scheme. During the merger process it became apparent that by merging with Age Concern Leicestershire & Rutland, Age Concern Leicester would effectively cease to exist. Due to legislation brought in during 2005, Age Concern Leicester would have to pay £526,000 to “leave” the scheme so that the Pensions Trust could continue to cover its ongoing funding basis deficit. This legislation applies to all multi-employer schemes.

The two organisations needed to find a way to merge which wouldn't trigger the payment. Initially therefore Age Concern Leicestershire and Rutland has changed its name to Age Concern Leicester Shire and Rutland. Age Concern Leicester has become a subsidiary company of Age Concern Leicester Shire & Rutland. All Trustees of Age Concern Leicester have been elected onto the Board of Age Concern Leicester Shire & Rutland and 6 of Age Concern Leicester Shire & Rutland trustees have been elected onto Age Concern Leicester's Board. Age Concern Leicester still has its own charity and company number.

The plan is still to go to full merger in about 9 months provided a way can be found to manage the pension issue. Professional advice on the issue has already cost £16,000 and is expected to total £30,000. As it's a static problem i.e. not related to the size of the organisation, these costs would be similar for any Age Concern in this position.

Case Study – Age Concern Halton and Age Concern St Helens

'By starting the process of collaboration on areas of work that are a priority for both organisations, and that will result in services or procedures that enable us to be more efficient and effective, we will therefore be better able to improve the lives of local older people and attain with them positive outcomes.' Statement from joint meeting of Age Concern Halton and Age Concern St Helens Boards of Trustees

Age Concern Halton and Age Concern St Helens began to consider closer collaboration at the beginning of 2007. Preliminary meetings were held with the Chair, Vice Chair and Chief Officers of both Age Concerns in February, and the Chair and Chief Officer of each was invited to attend the other's "away day" in late February/March.

It was agreed that work would progress with the following caveats

- There would be a written agreement setting out the terms of reference for the work and authority for making decisions*
- Ensure that there is consistent, open communication across both Organisations*
- View discussions as developmental and not simply as a mechanism for progressing remedial actions to ease financial pressures*

In April a joint meeting of the Boards of Trustees agreed that a collaborative steering group would be formed to oversee the work made up of the Chairs and Chief Officers of the two Organisations, chaired initially by Anne Reading, Age Concern England's Regional Operations Advisor. In June it was recognised that the workload was too much to be carried by the Chief Officers and it was agreed by both Boards to commit matched funding to appoint an independent consultant to progress the work. Having an independent third party involved has been very beneficial in that

not only are they able to carry out the work, but more importantly they have pushed the process along, asking sometimes difficult questions and making sure both organisations are focused on the end result and its implications. It was also agreed at that time that the work should focus on full merger rather than just collaboration. The two Organisations held a joint “Visioning” day in September, which fleshed out the reasons for merging, which are:

- The two Organisations complement each other in terms of their culture, guiding philosophies and service portfolios. The population profiles of the areas they cover are very similar;*
- By building on each other’s strengths and pooling resources, merger would create a stronger organisation capable of providing high quality services for older people in a challenging and competitive social and health care environment;*
- In particular, and unlike many competitors, the mission and objectives of the new organisation would stay focussed on the needs of elderly people, especially the most vulnerable. A stronger Age Concern body would be in a better position to articulate the needs of the population it served, and work with older people’s forums;*
- A larger organisation having a robust infrastructure would be more likely to have both the capacity and capability to work in partnership with public authorities in the area, especially the Primary Care Trust which now operates over the whole of Halton and St Helens.*

The Trustees were adamant that both organisations should promote this as an amalgamation and that it should not be regarded as a takeover of one organisation by the other.

A particular issue of importance for both Organisations has been how to inform members whilst at the same time ensuring that staff know what is going on. The membership ultimately have the final say over merger (or any change of structure). A lot of time has been devoted by Age Concern Halton in particular to informing their memberships about the reasons for the merger and what it will mean in practice. This prepared the way for the Age Concerns’ AGMs in October where the membership agreed in principle to work towards an amalgamation and thus merger of both Organisations.

An outcome of this decision was to replace the collaborative steering group with a merger steering committee (MSC) and widen its membership with three representatives from each board attending with the Chief Officers, Regional Operations advisor and the external consultant. An implementation group was then formed made up of both Chief Officers and the external consultant to progress work between meetings of the MSC and to prepare documents for consideration by the MSC and both boards as appropriate.

Current work includes undertaking a due diligence exercise to determine issues and potential risks; signing off a communication strategy; developing statements for use with Public bodies, funders, older peoples' forums, volunteers and customers (service users); submitting a funding bid to try to secure additional funding to supplement monies already committed by both Age Concern Halton and Age Concern St Helens. A media release has been prepared should it be needed but until a final and binding decision has been taken to merge, through an extraordinary general meeting of the members, it was felt unnecessary to involve the media at this stage.

To avoid uncertainty, especially amongst staff, it is hoped this process will be completed speedily, so that the governance structure of the new organisation is in place by December 2007, and it can begin work on recruiting its Chief Executive. This recruitment process will be restricted only to senior managers in the two organisations – there will not be an open, public advert – with the final decision taken by the trustees of the new organisation.

The MSC have recognised the need to address issues prior to merger including buildings, TUPE, Pension commitments.

For more information on the merger between Age Concern Halton and Age Concern St Helens, please contact either Melissa Critchley, Chief Officer AC Halton on 01928 590600 or Philip Longworth Chief Executive of AC St Helens on 01744 752644

Consortia

“A group of organisations who come together to fulfil a combined objective or undertake a project that requires co-operation and the sharing of resources” Oxford English Dictionary

Consortia are structures used frequently in the voluntary and community sector. However, a consortium does not have a legal status in its own right. Consortia are attractive to the third sector when tendering as they bring together organisations with a range of skills which means contracts that would have been outside the realm of one organisation alone are now open to them. However, it is crucial when bidding for contracts that:

1. If the consortium has no legal status, then a lead organisation which will take responsibility is identified. This organisation will be the one that signs the contract and will be responsible for ensuring it is delivered. The other organisations in the consortium will then sub-contract for particular pieces of work with this lead organisation.
2. If the decision is made to give the consortium legal status, then this will need to be planned well in advance as procurement officers will want to see a track record of delivery.

The following Age Concerns are involved in consortia:

Age Concern Camden: contact Gary Jones 0207 837 3777

Age Concern Teesside: contact Elizabeth Briggs 01642 805500

Age Concern Tiverton: contact Wendy Healey 01884 255369

Partnerships

NCVO has said that organisations should “beware of the word partnership”. Partnership has a specific legal meaning with profound legal implications. A legal partnership can be created whenever two or more people work together with a view to making a surplus. The problem with a legal partnership is that partners are jointly and separately responsible for all the partnership’s debts and liabilities. A creditor can sue the more affluent partner, recover its claim, and leave the partner to try and recover the appropriate share of the debt from the other partner(s). If you intend to establish a legal partnership, consider using a limited liability partnership (LLP).

However, most third sector organisations do not use partnership in the strict legal definition but as a way of formalising joint work often with a written agreement. Age Concerns frequently regard these agreements as “informal”, by which they mean not legally binding. However, in reality, they could be binding. For instance if Age Concern X has a partnership with Age Concern Y to deliver services in its area for which Age Concern X pays Y, it is likely that if Age Concern Y failed to do so yet took the money, Age Concern X ‘s point of recourse would be the partnership agreement.

If you intend your agreement to be legally binding, then it is, and will almost certainly be subject to contract law. Organisations must determine whether they share this intention at the outset, so legal advice is recommended. Partners should understand the extent of the undertakings made in binding agreements.

Whether or not it is a legally binding agreement, there are some basics a written partnership agreement should cover. (NB: these could also be applied to a consortium.)

- Who the partnership involves?
- For how long will the partnership continue?
- What is the status of the document – i.e. does it create a legal partnership?
- What will be delivered and by which parties?
- How will decisions be made?

- What resources will each party commit?
- Who will act as liaison person in each organisation?
- How conflict will be resolved?
- How the partnership can be ended?

Case Study – Age Concern Richmond upon Thames and Age Concern Kingston upon Thames: First Contact

First Contact operates between 10am and 12 noon, 5 days a week and handles all signposting enquiries for Age Concern Richmond and Age Concern Kingston. The scheme was set up because Age Concern Richmond's Information & Advice service was under-funded and needed reviewing. High quality information and advice staff were being asked to do basic signposting work on top of casework which was not an effective use of resources. The review identified that a two-tier system would work better and that the signposting could be outsourced whilst Age Concern Richmond continued to deal with casework. Funders were in agreement because they recognised it was a more effective and efficient use of resources. Age Concern Kingston were approached as they already operated a one-stop-shop service and are in the neighbouring borough. Age Concern Richmond pays Age Concern Kingston for the costs of one worker on a quarterly basis. There is a short partnership agreement between the two organisations that sets out the boundaries of the service and the roles and responsibilities of each party.

The arrangement works because the one-stop-shop staff have good training and induction and regular contact is maintained between the Chief Officers of the two Age Concerns.

Another challenge for the federation is that of Age Concern Groups and how they may participate in contracts and work with larger Age Concerns in their areas.

Case Study - Age Concern Hertfordshire & Age Concern Dacorum: Hospital Aftercare

Age Concern Hertfordshire is a large county-wide Age Concern with a turnover in excess of £2 million. Age Concern Dacorum covers the area of Dacorum Borough Council which is within Hertfordshire and has a turnover of approximately £330,000.

Historically, the relationship between the two Age Concerns is good. There are 6 Age Concern groups within Hertfordshire of which Dacorum is by far the largest.

Both Age Concern Hertfordshire and Age Concern Dacorum run hospital aftercare schemes. Hertfordshire PCT had started to talk about cutting funding for the hospital aftercare scheme and there was also talk of hospital closures which would mean Dacorum patients going to hospitals in Watford and St Albans. If the PCT had cut funding it would have had a knock-on effect on Age Concern Dacorum. Age Concern Hertfordshire and Age Concern Dacorum both felt it was important to demonstrate to the PCT that the hospital aftercare service is a county wide service.

They have therefore decided to align their two services and implement a joint working protocol. This protocol covers:

- The purpose of the protocol itself*
- Service aims*
- Service criteria*
- Service specification*
- Service structure*
- Referral routes*
- Liaison with external agencies*
- Promotion and publicity*
- Service user assessments*
- Volunteer recruitment and training*
- Information sharing and quality standards*

Members of Age Concern Dacorum hospital aftercare service attend 6 weekly team meetings hosted by Age Concern Hertfordshire.

The protocol is working very well and Age Concern Hertfordshire and Age Concern Dacorum are now looking to align other services they both deliver in a similar fashion.

For more information contact Karyn Jones Age Concern Hertfordshire on 01707 323 272 and Caroline Player Age Concern Dacorum on 01442 259049

Conclusion

It is important that Age Concerns start considering options for working together as soon as possible. The timescales of most tenders are such that there will be no time to establish a collaborative entity once the tender is published. Age Concerns within their Regions could begin to address issues around cross boundary working through the regional tendering networks. It is hoped that model documents for the different structures will be made available when the new Business Development Manager comes into post. Good practice guidance will be issued by the federation in December 2007.

Kirsty Woodard, October 2007

Appendix

Thanks are due to the following Age Concerns who contributed their thoughts and time to this report

Age Concern Dacorum

Age Concern Hertfordshire

Age Concern Nottingham & Nottinghamshire

Age Concern St Helens

Age Concern Halton

Age Concerns in Lincolnshire

Age Concern Teesside

Age Concern Tiverton

Age Concern Leicester

Age Concern Leicestershire & Rutland

Age Concern South Staffordshire

Age Concern Norfolk

Age Concern Northamptonshire

Age Concern Richmond upon Thames

Age Concern Kingston upon Thames

All Age Concerns who participated in the meetings in the South West, North east, Yorkshire & Humberside and South East regions.

Bibliography

- Joining forces - a guide to mergers in Age Concern
- Guidance for Age Concerns on setting up a Joint Venture Company

Both available on *acknowledge* <http://www.acknowledge.org.uk>

- THE PUBLIC CONTRACT REGULATIONS SI 2006 NO.5 Office of Public Sector Information

http://www.opsi.gov.uk/si/si2006/uksi_20060005_en.pdf

- An introduction to collaborative working
- Should you collaborate – key questions
- Joint working agreements – developing agreements between voluntary or community organisations
- Joint working for public service delivery
- Merger

Published by National Council for Voluntary Organisations, Regent's Wharf, 8 All Saints Street, London N1 9RL Telephone: 020 7713 6161 www.ncvo-vol.org.uk

- CC34 Collaborative Working and Mergers: An introduction
- CC37 - Charities and Public Service Delivery – An Introduction and Overview
- RS4 - Collaborative Working and Mergers

All published by the Charity Commission <http://www.charitycommission.gov.uk>

- COMMUNITY CO-OPERATIVES: AN INTRODUCTION

Published by Avon co operatives development agency <http://www.avoncda.coop/>