Collaboration Support Resources

Preparing for collaboration

Audience	Small organisations who have completed an internal assessment of their own capacities and readiness for partnership working, decided they are ready to develop a collaboration and now want to ensure their potential partners are equally ready and able to form a partnership.
Purpose	To provide small organisations with options and guidance to make a provisional commitment to a partnership, evaluate other partners and then, if development is successful, formalise the kind of partnership they have chosen to establish.
Intended outcomes	Small organisations: ☐ Understand how to negotiate and make a provisional, but non-binding, commitment to a potential partnership. ☐ Understand the different ways in which they can assess the readiness of their potential partners. ☐ Understand the different ways of formalising various types of collaboration and the relevant legal documents that underpin partnership structures.

This document is part of a series of Collaboration Support Resources designed for voluntary and community organisations.
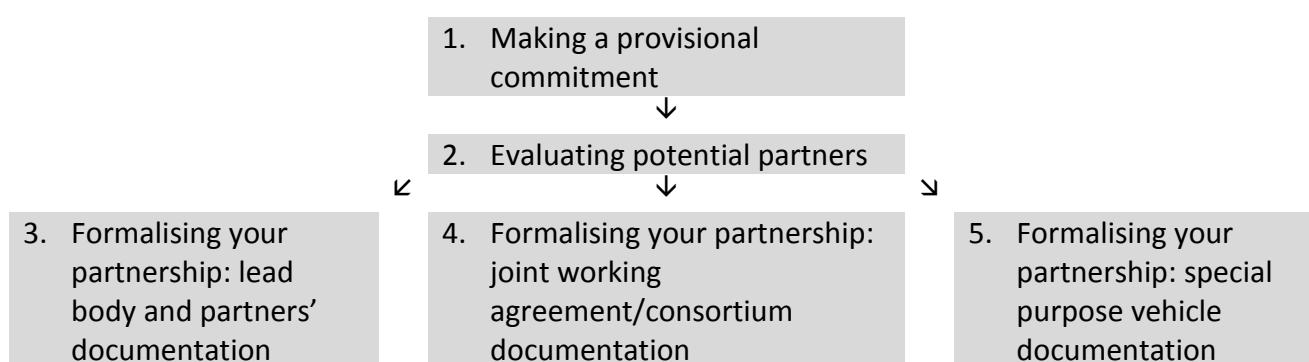
For more information about the whole series, and to use the other resources, go to
http://www.voscur.org/collaborationresources

Preparing for collaboration

You've now decided that you're ready to create a partnership and have a provisional idea of the model that might be most appropriate for your circumstances and needs. The next stage is to carry out an evaluation of all the potential partners and then formalise the arrangement in a suitable written agreement.

This document provides an overview of the process and describes the documents involved, depending on the model of collaboration or partnership you're working towards.

As the diagram in the introduction suggests, parts of this process are common to all types of partnership (making a provisional commitment, evaluating potential partners) and some are specific to certain models (formalising your partnership structure with documentation).

	1. Making a provisional commitment	
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	2. Evaluating potential partners	
↙	↓	↘
3. Formalising your partnership: lead body and partners' documentation	4. Formalising your partnership: joint working agreement/consortium documentation	5. Formalising your partnership: special purpose vehicle documentation

The following sections introduce each of the steps identified above (1 – 5).

1. Making a provisional commitment

Whichever approach to partnership you choose, all parties will need to find out basic information about each other and consider the fundamental and practical issues outlined in *What does working in partnership mean?*

These issues, and a provisional commitment about how you will approach them together, may be agreed verbally or recorded in a *Memorandum of Understanding*. This is a non-legally binding agreement which may be used to record issues such as who is intended to benefit, what the various roles of the parties might be, the drivers for setting up the partnership and the common understandings of the parties on issues such as vision, values, cultural matters and agreed outcomes. It can be a preparatory document before a more formal agreement is signed – such as a *Collaboration or Joint Working Agreement*. Agreeing these matters at the outset may be particularly important where not all the partners are charities, e.g. where some are social enterprises whose organisational values or cultures may differ from those of charities.

Values and cultures are reflected in the ways in which an organisation operates internally and externally. Internal aspects include, for example, whether the organisation has a hierarchical or a flat management structure, dress codes and other staff behaviour policies, and staff reporting and monitoring mechanisms. Examples of external considerations, such as approaches to service delivery and operating priorities, are identified in sections 4.5 and 4.6 of *Prospectus for an SPV Consortium* and section 2.3 of the *Memorandum of Understanding*.

2. Evaluating potential partners

Having had some initial discussions and made a provisional commitment to explore options in more detail with one or more partners, the next step typically involves finding out about each other in more detail. Two ways to do this are outlined in these resources:

2.1. a relatively simple *Strategic Partner Information form* designed for each potential partner to complete and share with the others;

2.2. a more comprehensive *Due Diligence Questionnaire and Report Template* that the potential partners could also complete themselves and share, or which could form the basis of an independent external assessment.

Having gathered this information, organisations can make a decision about the future development of a proposed partnership. This could mean:

a) deciding not to develop the partnership because of differences between or doubts about other partners;

b) identifying work that one or more partners needs to do (updating policies, strengthening their board of trustees, improving their accounting procedures) before the partnership can be developed further;

c) proceeding with the partnership as proposed, having been reassured that all the potential partners have the capacity and commitment to make the collaboration work.

3. Formalising your partnership: lead body and partners' documentation

These resources identify two types of lead body and partners' arrangement:

a) A 'consortium of equals', or peer partnership, where the lead body takes on this role for primarily administrative reasons, i.e. commissioners want to contract with only one agency, even if several organisations will deliver the relevant services together. In this scenario, the *Lead Body and Partners' Agreement* template is likely to be the most appropriate way to formalise your partnership, as it establishes a joint project management (or 'steering') group to govern the collaboration, including which partners bid for which contracts and how partners join and leave.

b) Subcontracting with a prime, where a lead is contracted by the public body, and it then coordinates other organisations to deliver different parts of the overall service, using subcontracts whose terms typically mirror the main contract but cover only the relevant subset of the overall outcomes. The *Example Public Body Contract* and *Example NHS Contract* (part 1 | part 2 | part 3) illustrate the kinds of clauses a main contract might contain and therefore what might be mirrored in a subcontract you may be offered.

4. Formalising your partnership: consortium documentation

Where organisations intend to work together to deliver a project or service that is likely to be a one-off or pilot, the *Joint Working Agreement* template is a simpler document that sets out the terms of the partnership, which could include both voluntary and public organisations, financial and in-kind contributions, and cases where one or more of the partners takes responsibility for accounting, reporting, etc.

5. Formalising your partnership: special purpose vehicle documentation

Most SPVs are companies limited by guarantee and with charitable status, but they may also be charitable incorporated organisations (CIOs) or community interest companies (CICs). SPVs that are charities may use the Charity Commission's model articles of association (or its model constitution for a charitable incorporated organisation), or the articles of association can be based on the Charity Law Association's plain-English model articles.

Writing the prospectus and consortium members' collaboration agreement

The prospectus is a document written by the founder members of a consortium and which can be given to prospective new members. The membership prospectus contents document in the protocols and due diligence documents shows the typical contents of a membership prospectus for a third-sector consortium.

The most useful place to start will be agreeing the values and cultural matters that members are required to confirm as a condition of joining the consortium. Note: these matters will not appear in the articles of association of the company (or in the constitution if the consortium is a charitable incorporated organisation). They can, however, be put into the prospectus.

The consortium may establish different classes of members. For example:

a) full members may be those who are 'tender ready', which means they have all the required quality assurance (QA) standards stipulated by the funders or commissioning bodies;

b) associate members may be those who are not yet tender ready but have given a commitment to achieving the required QA standards within a given period.

The *Prospectus* and *Consortium Members' Collaboration Agreement* will set out the roles and responsibilities of the hub/consortium body and its members, and their communications processes (normally via meetings at various levels).

For larger consortia, the members may agree to form clusters from time to time, in order to tender for specific grants, pieces of work or contracts. The cluster members may then sign a tender or cluster collaboration agreement governing their various responsibilities in relation to working on and drawing up a tender or grant application.

It is very important that the legal agreements address conflicts of interest and contain both informal and formal dispute resolution procedures. One very common problem with a consortium is resolving the tension where a member may wish to tender/apply independently for a particular contract or grant and therefore will be in competition or conflict if the consortium company/CIO also wishes to tender/apply for it. In order to function properly, consortia should require members to be transparent about funding opportunities – so all opportunities are notified to the consortium and a decision is made concerning who will tender/apply for them.

Where a member is in serious breach of its obligations under any agreement it has signed with the consortium, then this agreement must also contain provisions for sanctions or removal/termination in respect of that member.