

Trustees Week

Alliances and mergers: a personal
experience



**KF GOVERNANCE
SOLUTIONS**

Case study: AB and CD

November 2013 – the parent body of CD entered into an agreement with AB to transfer the supported service operations of CD to AB. This entailed the TUPE transfer of the charity's employees and the novation of the its contracts with the local authorities.



Purpose of transfer

- The parent body of CD was a UK wide charity providing services and support to children and adults with autism. CD, which supported people with mental health problems, was outwith its charitable objects (ultra vires)
- AB was a large charity based solely in England supporting people with learning disabilities and people with mental health challenges. Whilst about 3/4s of its work was in the community this was almost exclusively learning disabilities. Mental Health services were almost entirely restricted to 12-14 small registered hospitals. Taking over CD provided an opportunity to gain a mental health community footprint from which to grow.



Background

- AB and CD's parent body had a long-standing comfortable relationship.
- AB – charitable company, turnover at time of £55.6m
- CD's parent body – group structure, turnover c£40m, 9 subsidiary charities throughout the UK
- Process to move to closer partnership started in 2011



The Plan.....

- Group to group transfer of CD to AB by the end of 2013
- CD would retain its separate legal identity, structure, staff team, registration, policies etc
- AB would be protected, largely, from the risk that CD would bring whilst the issues were sorted out gradually
- CD would be assimilated into AB gently over a period of 2-3 years



The activities.....

- November 2011 – high level talks between the two CEOs and the Boards of AB, the parent charity of CD and CD (which had to agree the transfer too)
- By cApril 2012 the Directors of Finance were looking at prices and costs: affordability and returns
- Legal services were engaged (had to be different firms – currently used the same lawyer for charity advice)
- The Exec Teams were gradually involved, but at arms length other than the deputy director of finance, as it was a group to group transfer (therefore limited issues re HR etc, some around governance)



2013- what actually happened.....

- As the work progressed it became clear that the residual risks with CD were significantly higher than first thought, and the properties were inappropriate and required considerable work (building regs, DDA, H&S etc)
- Early in the year the Board of AB decided to withdraw from the Group to Group transfer and offered an 'asset transfer' model instead. This would move the services only, but not the buildings etc
- CD's parent body had already built in much of the 'price' into their funding plans and were anxious to ensure the transfer went ahead



2013 cMarch.....

- The formal decision to move to an asset transfer was taken
- The finance director of AB left for unrelated personal reasons
- Reduced price agreed and transfer to be complete by October 2013
- Asst FD took over project management



The impact of this decision

- Completely different process had to swing into action
- HR and TUPE transfer arrangements
- Discussions with commissioners re service users and the novation of contracts; other bodies to be involved including regulators
- Very limited period to examine culture and processes, although a detailed onboarding plan was developed for staff and service users and their families (where appropriate)
- Completely new risk profile had to be developed and managed
- TIME factor



Problems....

- Time and complexity
- Project management needed to be tight and people liked to talk!
Project management role handed to me in June 2013
- AB had to take the services as they stood – they could not develop or amend them before taking responsibility. Some were out of date models, incompatible with mental health care pathways and the definition of mental health had been ‘stretched’ to meet commissioning rather than client needs
- Issues with the landlords – proved intractable and time consuming
- Long-standing and intractable HR issues in CD



Problems we didn't plan for...

- Culture eats strategy for breakfast
- Hubris – prevailing belief that AB practices were better (they were not always so!)
- AB was very skilled in mental health and clinical services – but not in community mental health services
- Whole new Performance Management Framework in AB – structured in layers throughout the organisation by aggregating stats across areas allowed some managers to 'hide' problems (reliant on skills of Quality and Operations Managers)
- Came to a head with Mountain Hall SUI in 2018



And finally.....

Two years is a common timeframe for end to end process. A LOT can and will happen in two years that you have to keep up with (even without a Pandemic):

- The day job
- New projects take time and resources
- Changes in the Exec team
- Wider organisational change
- Legislative change (around sleepin payments, national living wage, Brexit)
- Normal issues of performance etc
- Cost pressures from commissioners on contracts and on hours of support

