

# **medeconomics**

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## **GUIDE TO PRACTICE MERGERS**

Advice on the financial, legal, HR, patient involvement  
and management issues involved with merging



# Merging can help practices to future-proof their business

The number of practice mergers has increased significantly in recent years, as practices adapt to the challenging environment in which they operate.

There is no doubt many GPs now believe there is strength in numbers and that working in larger organisations is a way to future-proof their business and deliver an improved service to patients. The current GP recruitment crisis, coupled with ongoing change in the NHS, means that many more practices will be considering whether merging is the right option for them.



However, the merger process is far from straightforward. Medeconomics' Guide to Practice Mergers provides expert advice to support practices through a merger. The guide covers everything from what to think about before you embark on a merger, the complex legal and financial issues that you need to address and guidance on how to ease the transition for staff and patients.

Meanwhile, case studies from two very different practices highlight the benefits that mergers can deliver for practices and patients.

**Emma Bower** editor, Medeconomics

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THE BUSINESS OF GENERAL PRACTICE

## About Medeconomics

Medeconomics is a business resource that provides practical, accessible advice and information on all the factors affecting general practice. Produced by the publishers of GP and MIMS, the website supports GPs and practice managers to run their practices more effectively, helping them maximise profits, meet performance targets and provide a high quality service to patients.

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# Steps to take before you merge

**Dr Jonathan Cope** and **Claire Oatway** explain the issues practices should consider before they start the merger process, while the case study below highlights the benefits their merger has delivered

## How do you work out if your practices are a good fit?

Geography and ethos are both really important in identifying would-be partners. There are a lot of synergies often with neighbouring practices – similar patient base, similar partners, and importantly the ability to move around staff if needed. Ideally, we would recommend that you stay within commissioning boundaries. This isn't essential but a lot of your direction is shaped by other factors and spenders/relationships with your CCG.

When we merged we already knew of each other. The three practices were neighbouring training practices; that was already a common thread that connected us all. There is a certain set of values that training practices have in common – a desire to develop staff and a willingness to invest energies for more altruistic gains for example.

You need to have shared agreed values before you can really enter into the merger process.

From a business perspective you definitely need to have the same ambition and recognise the same threats and opportunities. Similarly, you have to have similar styles around attitudes to investment and where you sit on the growth/efficiency continuum.

Fit is such an important quality, and often isn't a logical or rational area. A merger is, after all, a fairly

“You need to have shared agreed values and the same ambitions before you enter into the merger process”



permanent change and you have to feel fairly certain that it's a decision for all of you.

## What should the partners be doing before they start the formal process of merging?

When we were first starting out on 'Project X' we were meeting once a month as a broader group. Of course, it is important to keep the dialogue going within individual practices, so that as a group you are fully understanding what is on the table. A small group of individuals was then sent off into the other practices to find out more.

When everyone had answered those initial questions about compatibility and we had a better understanding of winners and losers then we had to decide whether to jump in. We decided to proceed in November and launched the new practice in April.

## Who do you need to talk to before you begin the formal process of merging?

In practical terms, our first steps included a non-disclosure agreement and a fighting fund

for an initial feasibility study, which paid for time and advice to compare accounts, QOF attainments, practice agreements and conduct HR due diligence. In this stage we would recommend external advice on financial issues, HR, performance, property, and due diligence.

Legal advice around the partnership agreement is also essential. This is such an important document for sustainability and will be an area of focus when you register with the CQC.

We spent quite a bit of time comparing existing partnership agreements and getting partners to agree common ground. We developed a spreadsheet for what we considered the 20 most contentious areas and areas of difference. Exploring those within the group told us a lot about our individual and collective values.

NHS England also need to be involved early because you are talking about a change in practice so timing and co-operation is essential. They have also been really useful in terms of understanding cash flow – such a large proportion

of income comes from NHS England so it is important that cash flow is managed. Similarly, changes can affect calculations such as your Cahill scoring – and NHS England can really help churn the figures.

The CCG was a valuable supporter. They wrote and supported our application to merge. We've also been able to understand their commissioning intentions and that has helped us to shape our strategy.

Practices should also speak with other local practices who have

merged or undergone similar processes, if possible.

### Is it worth employing a management consultant?

Yes. Finding the capacity to manage change is nearly impossible. From our experience, get the consultant properly engaged a month before you merge. There's probably not enough to do before that. However, talk to them early enough so that they can understand the culture as it is emerging.

A consultant can help you develop a view that is informed by current cultures, vision or ambition, but not shaped by any one organisation. That is really important in developing a sense of a new team, a new partnership and a new organisation. Having a strong sense of direction will help lead you through the learning phase when

the various cultures start to rub up against each other.

### Do you have any final tips?

Don't underestimate culture. It is often unstated and deep seated within many individuals in the new organisation. It won't be easy to describe but will be present in attitudes and decisions – whether conscious or unconsciously.

Get core systems and processes in as quickly as you can.

Finally, go for a quick win project – we were able to draw down cash from the Prime Ministers Challenge Fund. That helped to bind us together and demonstrate how we can work differently together.

**Dr Jonathan Cope** is a partner and **Claire Oatway** is chief operating officer at the Beacon Medical Group, Devon

“It is a good idea to speak with other local practices who have merged or gone through similar processes

## CASE STUDY

### The Beacon Medical Group, Devon

In April 2014, Ivybridge Medical Practice, PlymRiver Surgery and The Ridgeway Practice in Devon joined to form a single organisation, The Beacon Medical Group. This new organisation has 33,000 patients and 19 partners.

The decision to merge essentially boiled down to a choice between collaboration or competition. We believe our new organisation will be stronger than the sum of its parts.

We hope to be more resilient as a business, making it easier to maintain quality care for our patients in the challenging years to come. Patients will have more choice and more services provided in the primary care setting.

From initially proposing this idea to one of the other partners, to making the decision to merge, probably took around a year.

During the six-month period ahead of the actual merger, we prepared to align as much as was

“It was a choice between collaboration or competition – the new practice is a stronger organisation

practically possible. Transition costs to undertake these processes were in the region of £50,000, though this cost does not include the time needed to drive this forward, and to maintain an overview.

A key challenge has been the change in mindset for partners and staff alike, to begin to think like a single, larger organisation. The HR processes require a lot of time, and attention to detail. Protected time is essential to be able to work through these issues.

We also used small working groups with representation from all member organisations to maintain engagement, and as a vehicle to share work with the wider partnership.

Having realised some early significant economies of scale, we have been able to increase the services offered to patients. Work is continuing on this, there are many more areas for saving to be realised.

Our patients have largely embraced the idea of our merger, we have focused on communicating the benefits to the service they will experience and we plan to engage our practice population more closely to help us plan for the future.

Our merger took place in April 2014, and is still a work in progress – we are learning every day.

# The financial aspects of a merger

It is essential for practices to compare accounts and discuss financial issues early on in the merger process, explains **Jenny Stone**

Practices may have decided that they want to merge and all the partners have the same vision for the new organisation, but many mergers fail due to the finances of the practices. Therefore it is vital that you discuss finances early on in your merger talks.

## Comparison of accounts

Merging practices will need to exchange accounts so that each practice can review the other's finances. Ideally you should be open about your accounts early on in your merger discussions, but you may want to consider a 'non-disclosure' agreement.

After you have merged you will be one practice and will be sharing the profits, so you need to review the level of profitability to see how each practice compares. Ideally, calculate and compare the profits per full-time partner or per partner session. Problems can arise where one practice has higher profits per full-time partner/session than the other.

It is advisable to ask your accountant to review the practice accounts as you need to ensure you are comparing like with like. For example, some accountants deal with the partners' employer's superannuation differently – one practice may pay the partners' professional subscriptions whereas the partners in the other practice may pay personally.

At first glance of each other's accounts the profits may look similar per partner/session, but

**“You should be open about your accounts early in your discussions, but you may want a 'non-disclosure' agreement**

when a detailed analysis is made, they could be very different.

Expenses should also be compared to review whether there are areas that may be particular high for one practice. This could indicate different working patterns that may need to be reviewed as part of the merger discussions.

If the profit per partner/session is very different, you will need to discuss how to deal with this when sharing profits in the new partnership. The high earning partners are unlikely to want to merge if they are going to take a drop in income.

Usually profits will be shared based on sessions worked. You could allocate profits differently to begin with, but eventually the partners will need to share profits fairly otherwise this could cause tension.

You will also need to discuss and agree exactly how the profits of the merged practice will be shared, what income is prior allocated and what income is pooled. For example one practice may pool seniority whereas the other prior allocate to the relevant partner.

## Profit forecast

The advantages of practices merging are maximising economics of scale and savings in staff and possibly premises costs.

Once you have exchanged accounts, you should prepare a profit projection for the merged practice, identifying potential savings and areas where income may increase. This can be used to calculate the individual partners' profits in the new partnership, which can be compared to current profits.

## Type of contract

NHS England will need to be informed about the proposed

merger. If you both have different contracts, ie a GMS and a PMS contract, you will need to discuss with NHS England if there will be any change to the contracts. A partnership can hold different types of contracts, however if one practice is a PMS practice this may give NHS England an opportunity to review its funding.

Our firm had two practices that were in talks about merging for over a year, and when NHS England was informed it decided to reduce the PMS practice's funding, which made the merger unviable.

## Staff levels and terms

Review the terms of staff contracts at each practice as these will need to be the same.

For example does one practice pay overtime whereas the other offers time in lieu?

There may be additional costs with making sure terms are the same. If you are expecting to make some staff redundant you will need to calculate the cost of this in the first year of the merger as this will impact on the partner's profits.

[➤ See page 12 of this guide for more about the staff issues involved with merging](#)

## Accounting year-ends

Do both practices have the same year-end? If different, you will need to agree the year-end for the new partnership accounts. If one practice is changing their year-end, they may have a large catch up of tax and superannuation.

If this is the case, the partners should seek advice so that they can plan for this.

## Drawings

Are drawings taken net or gross of tax? Some practices still withhold the tax from the partners and pay drawings net of tax.

Again this needs to be the same so you need to decide how your drawings will be taken in the new partnership.

### Working capital

All practices have different working capital requirements and partners will view how much of their income they need to leave in the practice differently.

One practice may take fewer drawings throughout the year and take a lump sum once the accounts are prepared, the partners in the other practice may take all their income out each month and leave the minimum amount of working capital. Again you need to agree the level of working capital for the new partnership.

### VAT registration

Is one practice registered for VAT? If so, VAT will be applicable to the merged practice and VAT will need to be charged on the supply of services that are not exempt.

If both practices are not VAT-registered, you will need to review the combined level of turnover that is not exempt. The new practice may need to register for VAT if it exceeds the turnover threshold.

### Premises

You will need to discuss what will happen to the practice premises and any branch surgeries. Are



they owned or leased? If one practice owns the premises and the other is leased, will all partners have an opportunity to buy into the premises that are owned? If premises are leased, both practices need to be aware of the terms of the lease.

If you are considering closing a branch surgery, the terms of any lease will apply. You also need to consider whether there are dilapidations relating to leased premises and who will be responsible for these costs.

If premises are leased, establish whether there are any outstanding service charges relating to the period before the merger as you need to ensure provisions have been made.

If the merged practice will be moving into new premises, check whether there are any

loan redemption charges. If so, a decision will need to be made as to who will pay for these.

### Accounting systems and banking

Each practice will currently be running their individual accounting systems. You will need to discuss setting up one accounting system for the new partnership.

You will also need to open one bank account or add all partners' names to an existing account and decide who will be responsible for looking after the practice finances and signing cheques.

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## Finance checklist

- Exchange practice accounts – you may want to have a non-disclosure agreement.
- Ask your accountant to review the other practice's accounts and make a comparison to your own for profit per partner and session.
- Prepare a profit forecast for the merged practice, taking into account savings or additional costs.
- Inform NHS England about the proposed merger, so discussions can be made if the two practices have different contract types.
- Review staff contracts and levels of staff, calculate any potential redundancy costs.
- If year-ends are different, get advice about the potential increase in tax and superannuation of one practice changing their year-end.
- Agree how drawings will be taken and working capital requirements.
- Review whether the merged practice will exceed the turnover registration limit for taxable income that is not exempt from VAT.
- Leased premises – Ensure provisions are made for outstanding service charges, consider who would be responsible for any dilapidations.
- Owned premises – Consider whether all partners in new practice can buy into the premises. Beware of changes to finance arrangements and early redemption penalties.

# The legal process of practice mergers

Lynne Abbess and Puja Solanki provide a step-by-step guide to legal issues when merging

Over the past few years, we have seen a huge increase in the number of GP practices wishing to merge. However, a merger should never be regarded as something that can be 'sorted' over a cup of coffee. There are significant legal steps surrounding any merger, which practices may ignore at their peril.

## Early advice

It is assumed the partners from each practice will already have sat down together and discussed the key principles to govern the new arrangement.

Before contemplating proceeding further, each side should seek early advice from its accountants. If the financial advice is generally positive, the next step is to run the proposal past both practice solicitors to ensure there are no legal impediments that might later throw a spanner in the works.

NHS England should be your next port of call. While it might theoretically be possible under GMS to present the merger to NHS England as a *fait accompli* it would be a brave practice to do so.

Once these preliminary steps are out of the way you can start to put your plans into action.

## The process of merging

Many practices believe that, in terms of the legal arrangements, only a new partnership agreement is required. However, this is only one aspect of the merger and the same legal principles that apply

to commercial mergers apply to practice mergers. The box below shows the legal stages of a merger and is the 'best practice' format to follow.

### Stage 1: Matters that may not be straightforward

**Due diligence:** It is vital for each practice to undertake a full due diligence exercise of the other. This will be an investigation into the other practice's accounts, employees, NHS contract, suppliers, equipment, premises, patient list, stock etc. to ensure that all is in order and shed light on any liabilities that may otherwise be taken on, unless they can be excluded from the merger.

**Staff:** Consider any differences in the staff contracts and take advice about the means of smoothing out any variations post-merger. Agree in principle whether any staff may need to be made redundant – and, if so, at whose cost this should be.

➤ [See page 12 of this guide for more about the staff issues involved with merging](#)

### Transfer of your NHS contract(s):

In a full-blown merger (as opposed to a 'takeover') the objective would be to add the name of at least one partner from each practice to the contract of the other practice. In the case of a takeover, this could be a one-way exercise, with a partner from the 'dominant' practice being

There are many legal steps surrounding a merger, which practices ignore at their peril



added to the other contract (but not the other way around).

For GMS practices the contract variation is (in most cases) unchallengeable and simply requires the service of a notice in standard form on NHS England. In the case of a single-handed contractor, not less than 28 days' notice must be served. In the case of a partnership, other partners can be added following the service of the variation notice – no specific notice period is applicable.

Because a PMS contract is 'personal' to the named contractors, NHS England's consent is required for any variation. The timescale for this is not prescriptive and may take some time. Irrespective of which contract is held, it is advisable to contact your local area team at an early stage to ascertain their requirements for your proposed arrangements.

**Premises:** Agree the arrangements for the use of all existing premises. This includes whether any disposals will be necessary, which might take more time to resolve and could incur substantial dilapidation costs or a premium to terminate a lease early. You should also address the basis of occupation of both of the practices' sites.

## Legal stages in a merger

- **STAGE 1:** line up those matters which may not be straightforward
- **STAGE 2:** exchange the business transfer agreement
- **STAGE 3:** line up the remaining (more straightforward) issues in preparation for completion and complete those issues legally required to be in place at the time of completion
- **STAGE 4:** Completion of the merger
- **STAGE 5:** Deal with post-completion matters

For the sites to be retained, the practices need to consider:

- updating their title deeds (and mortgage if applicable)
- seeking the consent of the landlord to assign any lease.
- entering into a Declaration of Trust to ensure the relationship between the owners/named tenants and the occupiers is clarified.

**Medical defence insurance:** Check at an early stage that cover will be available for the merged practice and at what cost. Disclosure of claims may be a vital factor in this respect.

**CQC registration:** A new CQC registration will be needed in the name of the new partnership. Contact the CQC early about this.

**Negotiating merger documents:** This involves the business transfer agreement and partnership agreement. The business transfer agreement governs the commitment to proceed with the merger and what happens at the point of merging.

It should deal with the mechanics of the transfer/amalgamation of the NHS contracts, contribution of capital, warranties and/or

indemnities from one practice to the other, apportionments of liabilities and costs prior to and after the merger, and the transfer of employees to the merged practice. It will also need to contain provisions regarding contribution to the capital of the merged practice together with the arrangements for occupation of premises.

The partnership agreement will govern the relationship of the partners going forward and will be effective from the day of the merger. It may well be that one (or both) practices have current and up-to-date deeds that could be adapted into the merger deed. However, ideally the practices should start from scratch to ensure that they have a solid and thorough document that governs the operation of their merged practice.

#### **Stage 2:** **Exchange of the business transfer agreement**

This stage makes the arrangement legally binding. Attached to the business transfer agreement will be the agreed form of the partnership agreement and any other relevant agreement to be entered into at completion, for example premises documentation.

Once exchange of the business transfer agreement has been achieved you can proceed safely to implementing the steps required to enable the merger to be effective.

#### **Stage 3:** **Preparation for completion**

Under the Transfer of Undertakings (Protection of Employment)

Regulations 2006 (“TUPE”), all employees must be given reasonable notice of the merger. They must also be properly informed and consulted on the transfer of their employment to the new partnership.

The practices’ Information Commissioner registration will need to be updated for the new practice.

At this stage you should also submit/implement those issues which are legally required to be in place by the time of completion, for example the variation of your contract, the opening of the bank account and any other issues which have been ‘lined up’ in principle prior to exchange.

#### **Stage 4:** **Completion of the merger**

Complete the merger as detailed in the business transfer agreement, together with any other legal documents.

#### **Stage 5:** **Post-completion matters**

All staff should be issued with new contracts as soon as possible and no later than two months following the merger. Suppliers and contractors will need to be notified of the merger and formal letters will need to be dispatched.

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 You should ideally create a partnership agreement for the new practice from scratch

### Legal checklist

- Undertake a comprehensive due diligence exercise.
- Address any variations in staff contracts and consider whether redundancies will be necessary.
- Talk to NHS England to ascertain requirements for transferring contracts.
- Agree issues relating to premises, including updating leases, clarifying owner/tenant partner relationships and issues relating to property disposals.
- Check and update medical defence insurance
- Negotiate the business transfer agreement and new partnership agreement.
- Give staff adequate notice of the merger, following TUPE regulations.
- Update Information Commissioner registration and CQC registration.
- Issue staff with new employment contracts following the merger.

# Practical issues involved with a merger

**Dee Lynes** highlights the issues that need to be addressed early in the merger process

If you are considering a merger then you are probably already concentrating on the growing list of tasks that you need to complete – and it is a long list.

Financial and legal advice should be your first ports of call. These issues are dealt with in detail on pages 4 and 6 of this guide.

It is essential to complete a thorough due diligence exercise before you commit to a merger. Do not take any shortcuts with this.

Get this information at the beginning so you can make properly informed decisions about whether to proceed. Invest in advice about the impact of the merger on partners' drawing levels and tax liabilities, and be mindful of the consequences for any partners considering retirement.

Also invest in a business transfer agreement, which details how the practices and their assets will be brought together. This should be underwritten by comprehensive warranties and indemnities schedules. This document and its supporting schedules are an extremely important 'insurance policy' – see page 6.

Once the finances and legal issues have been dealt with, the following tips will help you to identify the practical and management tasks you need to tackle early on in the merger process. HR issues also need to be dealt with, which I cover in more detail on page 12.

“There is always variation in clinical procedures and policies and a benefit of merging is being able to share best practice

## 1 Be clear on costs

Mergers are an investment in your future and as such come at a cost. They involve a significant amount of extra work for partners and staff, so be realistic about the time you need to complete this work and the cost.

Be clear at the beginning which costs you will jointly share (and in what proportion) and how these costs will be paid for. Ideally produce a report each month to monitor these joint costs closely.

## 2 Align IT systems and clinical policies

Discuss your IT requirements with your CSU at an early stage. Large scale changes may be needed in terms of server capacity/location or even a practice migrating to a different clinical IT system.

If the IT systems at each practice are different they will need to be consolidated into one provider, which may take some time, so contact your suppliers early. Other considerations, like making sure email and online services are not disrupted, will also need to be addressed.

There is always variation in the clinical procedures and policies used between practices and one of the benefits of a merger is being able to share best practice. However, it can be difficult to know where to start when creating a new set of policies and procedures.

It's a good idea to focus on aligning your clinical IT system first. You will need to do this anyway to make sure that the IT migration goes smoothly, but by focusing on the clinical IT system initially other 'off-line' variations will quickly come to light.

Clinical alignment is a complex exercise because how each area of the IT system is configured and used will need to be compared and a joint decision taken about what

the new practice will do. Once you have made these decisions then try to introduce the changes ahead of the transfer date at a pace that your staff can cope with.

By the time your IT merges you should have mirror images of each other's systems to minimise disruption to partners, staff and patients on the day of the merger.

Your local CSU may provide a project team to help you with this exercise. However, be aware that TUPE legislation does protect 'ways of working' as well as staff terms and conditions of employment so you need to be mindful of this when discussing changes with staff.

Finally, you will need to pre-book a date for merging your IT systems and this date may not be the same as when your businesses merge, which can create other challenges to plan for too.

## 3 Agree your decision-making process

The number, range and complexity of decisions that you will be asked to make during a merger process are vast. Often when two partnerships come together they bring with them different decision-making cultures. Agree how joint decisions will be made at the outset. A well-defined, lean decision making framework, underpinned by a strong 'task and complete' ethos is essential to delivering a successful merger.

Successful mergers are based on good clear communication between all partners, attitudes of respect, the ability to have direct conversations about important matters and dealing with concerns sensitively and promptly.

Plan events for partners to relax together. Although such events may seem like a luxury, they amount to an investment in the merger process itself and the development of your future partnership.

## 4 Informing suppliers and other organisations

Whether you have decided on a merger or an acquisition as your preferred model, at least one practice will cease to trade as a business. For this practice, there will be many organisations to inform, each having their own time-consuming processes to follow.

You will need to notify all of your suppliers and any organisations

for whom you provide services or accommodation. However, review suppliers at an early stage to better manage any early redemption fees that may apply, especially in relation to telephone contracts where these can be significant.

## 5 CQC registration

Your CQC registration details may need changing if you have new partners or you are

changing your 'trading as' name and all closing practices will need to deregister. Contact the CQC about what you need to do early on.

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## CASE STUDY

### Midlands Medical Partnership, Birmingham

Midlands Medical Partnership (MMP) is a Birmingham super-partnership that is leading the way in providing large scale integrated primary care services. It is one of the largest GMS partnerships in the UK, caring for 62,000 Birmingham Cross-City CCG patients.

MMP's vision is to provide responsive and high quality patient care, at larger scale, with integration of primary, secondary and community providers, whilst protecting the values of 'traditional general practice' in the changing NHS environment.

The super-partnership concept came from a discussion between like-minded GPs, with an ambition to protect local patients' experience of primary care and develop improved access to services. Our goal in 2009 was to develop as a multispecialty community provider – something that has subsequently been developed as part of the NHS Five Year Forward View.

#### FIRST STEPS

In 2009 the journey commenced with the merger of seven founder practices totalling 46,000 patients. This was driven by the GP partners, who developed a merger framework that has proved to be key to the formation of the super partnership structure.

There has since been three additional mergers and MMP now operates out of 10 sites across Birmingham, caring for nearly 10% of our CCG's patients. Further growth of the partnership remains a key strategic objective. The partnership works with other local providers to improve the seamless provision of co-ordinated care, with centralised front and back office functions.

Our central management team has a general manager, operations manager and strategic business manager. We also have centralised IT, HR and finance functions. This means the local practices can focus on supporting patient needs, with integrated cross-site working, without the burden of organisational issues such as CQC, HR, IT and contracts.

Working at scale some of MMP's achievements are:

- **Improved care co-ordination, increased access, increased services (primary and specialist) and single point of access for our patients**
- **Reduced costs from improved efficiency, allowing reinvestment to develop the organisation**
- **In-house clinical support for all doctors and nurses, with structured educational and development programmes**
- **Career development opportunities, with a well-organised HR function for over 200 staff.**
- **Strength as a large-scale provider to influence the outcomes for our organisation and patients**
- **A corporate structure that provides more security for the partners and staff and has delivered forward thinking objectives and vision.**

Working as a large provider has allowed us to develop a strong working relationship with Birmingham Cross-City CCG. MMP is the pioneer practice for the CCG's Aspiring to Clinical Excellence Programme, which has integrated care as one of its key objectives. Our structure makes us ideally placed to implement an enhanced model of primary care.

Working at a larger scale as has been envisaged by the Five Year Forward View is an exciting journey. It has been well worth the effort. We believe MMP has set a benchmark for the 'super-practice' model, providing holistic, patient-centred care and more integration of primary, secondary and community services.

It is remarkable how the many steps along the way have combined to achieve such a substantial redesign of the model of primary care provision, helping to protect and secure the future needs of our patients.

**By Dr Dave Sangha, executive partner and James Robinson, general manager, Midlands Medical Partnership, Birmingham**

# Managing staff through a merger

Practice mergers can create a lot of anxiety for staff. **Dee Lynes** explains how practices can ease the transition and the employment law issues to consider



Often when practices decide to merge, what really happens is that practice A agrees to acquire practice B. There can be compelling business reasons why this might be the best option for both practices.

Though technically an acquisition, it is still very much a merger in spirit as the two practices come together as equals with a joint say in how the larger practice will operate. I call this situation a 'merger via acquisition'. It can be a confusing and anxious time for staff.

Here are my top ten tips for handling staff matters during a merger – with some specific issues to beware of if you are involved in a merger via acquisition.

“It is important to ensure staff feel quickly engaged with the merger and have a say in their future

## 1 Does TUPE apply?

Check whether the Transfer of Undertakings (Protection of Employment) Regulations 2006 – better known as TUPE – are relevant to your transfer. TUPE applies to organisations of all sizes and protects the employment rights of staff transferring to a new employer.

Read the ACAS guide to Handling TUPE Transfers. This is an excellent resource that explains what both the new and old employers' responsibilities are.

## 2 Employer liability insurance

If TUPE does apply then both practices should make sure that their employer liability insurance policy covers them for TUPE claims. Some insurers will give you access to a specialist TUPE helpline that can help reduce legal fees significantly but they might not cover you retrospectively so arrange the insurance before you speak formally to staff.

## 3 Maintain staff morale

Staff morale often falls once a merger is announced. It is important to make sure that staff feel quickly engaged with the process and have a say in designing their future. Take time to plan a co-ordinated information and consultation strategy for both practices. It doesn't have to be complicated but it does need to ensure that staff receive the right information at the right time and in the right way.

Don't hide behind emails but have plenty of face-to-face opportunities for staff to share their views about any proposals you make (for example, staff-wide meetings, small staff working groups, site visits to new working locations).

## 4 Employee representatives

If your merger is a 'merger by acquisition' as discussed above, then staff at practice B have a legal right to elect employee representatives to consult about

the transfer on their behalf (unless there are fewer than 10 employees overall).

Consider keeping employee representatives in post for a year beyond the transfer date. This will give both transferring staff and yourselves a focus group in which to sort out any problems that may arise. Consider letting affected staff at practice A have a representative group too because there may be changes for them as well.

## 5 Be open and honest

Be open with staff about the real reasons for merging and whether it is an acquisition or not. If practice A is acquiring practice B then only staff at practice B will be covered by TUPE. Both staff groups will quickly realise that practice B's staff are being treated differently so be honest about why this is.

If you are in this situation, reassure staff that although the practices have decided to merge via an acquisition it is still very much a merger in spirit and an opportunity to share best practice and build a stronger team.

## 6 Ensure all HR documentation is up to date before the merger

Practices will need to share information about terms and conditions of employment (e.g. contracts, staff handbooks, job descriptions). Make sure these are up-to-date and don't forget any implied terms that may have arisen through custom and practice but which might not be written down. You will need this information to help you compare the two practices' terms and conditions of

## “ Don't design an organisational structure to fit the staff you have – it won't give you the future-proof practice you need

employment, identify any terms that may be problematic to maintain and then get legal advice about which terms TUPE allows you to change.

Try and avoid imposing a change by reaching agreement with staff through consultation instead. Where there are differences that you cannot change (e.g. pay scales), be open with staff about these.

Not all practices can afford to increase benefits so their staff can enjoy the same terms so be honest about this and if you have a long-term plan to address the differences then share this too. Staff might not be happy but they usually understand financial constraints.

## 7 Listen to staff

Practice staff are often very experienced and knowledgeable and will have good ideas about how to do things differently. Listen to them carefully and don't be afraid to change your mind as a result of what you hear.

## 8 New organisational structure

Decide what organisational structure and staffing levels the new practice needs and then see how staff and managers from both practices map on to it. Don't try and design a structure to fit the staff that you have; it invariably

won't give you the future-proof structure that the new practice needs and you could regret it in the long run.

As difficult as it is, don't rule out redundancies if they are genuinely needed and always consult about any changes to roles.

> **For more about redundancy see Medeconomics' HR Toolkit guide How to manage staff redundancies at [medeconomics.co.uk/redundancy](http://medeconomics.co.uk/redundancy)**

## 9 Encourage staff to work together before the merger

Create opportunities for staff from both practices to work together before the transfer on practical projects, not only will it help you align the two practices' policies and procedures before the big day but when people meet people it can help alleviate anxiety.

## 10 Celebrate your new organisation

Mergers generate a huge amount of extra work at a time when staff can feel very anxious about their future. On the day of the transfer take time to celebrate – in whatever small way – what the two teams have achieved. Welcome all staff to the new practice and provide high quality induction sessions to get the new practice off to the best start possible.

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### Staff issues checklist

- Make sure you are insured for TUPE claims.
- Follow the ACAS Guide to Handling TUPE transfers.
- Coordinate an information and consultation strategy between the practices.
- Be honest with staff about the reasons for the merger.
- Listen to staff and involve them in decisions about the new practice.
- Create opportunities for staff to work together before the transfer day.
- Remember to celebrate what you have achieved.

# Engaging with patients during a merger

Merging practices should obtain patient feedback and keep stakeholders informed, says **Dee Lynes**



When two practices merge through the acquisition of one practice by another, typically this means that practice A will take over the patient list of practice B.

In all of the mergers via acquisition that I have been involved with the local NHS area team has required Practice B to canvass the views of their patients about the change. Rightly so. Patients are often very interested in what is happening at their local practice and it is important to take account of what they think.

You may need to produce a report for your local council's overview and scrutiny committee providing information about your proposal and including the views of patients and stakeholders.

Even if your merger is not an acquisition, you should still engage with patients and ensure they understand the benefits of the changes you are proposing. Here are ten tips to help you do this.

## 1 Get advice from your area team

When you first meet with your local NHS area team to discuss your merger, agree with them in advance how you are going to engage with your patients. Your area team may have experience of presenting reports to the overview and scrutiny committee so ask if there is anything that the committee particularly like to see included. Sometimes the area team may contribute to the cost of engaging with patients, so ask about that as well.

## 2 Be honest

Be honest with your patients about the reasons for the merger. Produce a clear information sheet that explains who you are proposing to merge with and when, the main reasons why you want to merge, and what the main changes and benefits for patients will be.

If there are any adverse effects

for patients then be upfront about these too (they will come out later anyway), for example if a site is going to close and some patients will have further to travel, or if on-site car parking will no longer be available. Importantly, explain how you have tried to mitigate these effects and, if this has not been possible in all cases, why you still feel that the benefits of your proposal outweigh these issues.

## 3 Get feedback

Design an easy to complete feedback form for patients to fill in, and give them plenty of space to include their own comments. Provide different ways for patients to provide feedback too, taking into account patients' different access requirements.

Consider setting up a dedicated email address, having prominent boxes in the practice waiting rooms for feedback forms to be returned to, enabling receptionists

## “Your patient participation groups can be a great asset in answering patients’ questions

to complete forms on behalf of patients who wish to pass their views on verbally, using social media where you can, and planning at least one open meeting where patients can meet GPs and staff from both practices and ask any questions they might have.

If you are relocating to a different site then consider having the open meeting there so that patients can have a good look around. Don't forget to let your patients know the outcome of their feedback and keep them informed of progress.

Consider posting the information sheet and feedback form direct to all your patient households so that no-one is missed. Some patients may not visit the practice often enough to see posters in your waiting room and they may not use your website.

Although the NHS area team has never asked practices I have worked with to formally gather feedback from practice A's patients when practices are involved in a merger by acquisition scenario, I think it is important to include them in any consultation exercise.

**4 Use your patient groups**  
The patient participation groups at both surgeries can be a great asset in answering patient questions about your proposals and feeding back any concerns patients may have. They can also have a reassuring effect

when they are present at open events, so do involve them when planning these.

**5 Use this as a PR opportunity**  
Maximise the PR benefits of engaging with your patients because it won't just be your own patients that see the information about your proposals. Promote the calibre of the GPs, staff and resources that will be coming together and the increased expertise, continuity and services that this may provide. Use your local press where you can but be aware of the usual caveats that go with working with the press.

**6 Obtain the views of other stakeholders**  
Identify and contact your local stakeholders to let them know what is happening and ask them for their views as well. Depending on the level of response that you get, you may need to have an open event just for them.

**7 Overview and scrutiny reports**  
After the survey, work with your local NHS area team to produce a report for the overview and scrutiny committee and be prepared for GPs from both practices to have to attend in person. Make sure the report is accurate and there are clear audit trails to verify any results or findings that you include.

**8 Accept you may lose some patients**  
Some patients may decide to move to another practice as a result of your proposals, especially if you are relocating. Try not to take this

personally, they may be as sad to leave as you are to see them go and – of course – they may well return after a short period of registration with another practice.

Let patients know what they should do if they want to move practices, though emphasising that you hope they will stay with you. Provide details of organisations patients can contact if they need help deciding what to do and then let these organisations know in advance about your proposals so they are well informed and can support any patients that contact them.

**9 Information for patients after the merger**  
Help patients settle into the new practice quickly by providing a timely Q&A sheet that tells them all they need to know about the new practice. Be particularly clear about any interim arrangements that are being put in place (especially for booking appointments and repeat prescriptions). Even if something isn't changing, let them know to avoid any confusion e.g. if opening times are remaining the same.

**10 Involve patients in celebrating the new practice**  
It's not every day that a new practice is born so take a moment to celebrate with your patients the start of a new era.

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### Patient involvement checklist

- Work closely with your local NHS area team.
- Keep patients informed and listen to what they say.
- Use different forms of communication to encourage engagement.
- Maximise the PR opportunities to promote your practice to a wider group.
- Make use of your patient participation groups in this process.
- Celebrate the start of the new practice.

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