
4. *What kind of documentation?*

Sometimes a fear of being “signed up” can keep people and agencies away from the collaboration table, especially in the early days of talking or working together. However, you can still document things without having a formal, signed agreement.

Terms of Reference or initial frameworks

A Terms of reference document may be prepared in the beginning stages by partnering agencies, with the “terms” acting as an initial framing of why people have come together and what they are hoping to achieve. Generally this isn’t a formal “signed up” document, it merely acts as a shared starting point.

For example, in the early days of coordinated interagency discussion between council and central government agencies in Waitakere, there was no formal written agreement. However, there was a very simple written “understanding”, based on a whiteboard brainstorm, of what the purpose of meeting was, what the group wanted to achieve and how the meeting process would loosely run (attached at appendix 2). At the time, this was more than enough to get a joint interagency process started.

In other cases, an internal terms of reference may be useful for agencies to prepare before they enter into negotiations with other potential partners. In these cases, the terms act as internal reference tools that explore agency goals, visions, expected outcomes and likely resourcing implications. This enables agency representatives to be aware of their agency’s expectations and the limits of their own mandate before they sit at the partnering table.

As noted earlier, there is no one size fits all agreement that will suit every partnership. There are however, some important rules of thumb to remember when drafting a partnering agreement:

- keep it as simple as possible - the shorter the better
- use common language that everyone understands
- where appropriate, view agreements as longer rather than shorter term eg. 3 years vs 1 year, but still reviewed annually⁷
- make use of attachments that sit alongside the main agreement to document work programmes and detail structures, processes etc.

In some cases, a simple one page statement of intent is all that is required to keep people committed and working together. In other cases a more descriptive account of the why, what, when, who and how is needed. An effective agreement needs to contain sufficient detail to guide the partnership outlining visions, outcomes, etc and serve as a mechanism by which partners can assess the fulfilment of their commitments ie. Is this what we wanted to achieve, did we do what we said we would, what were the results?

⁷ Note: the importance of longer term funding was a key recommendation of the Voluntary and Community Sector Working Party and is also supported by Treasury.

When working at a relatively strategic level, it's likely that the agreement will be about getting commitment to some high-level visions, goals and principles. If the focus is on aligning operations or services, then the agreement will probably include shared outcomes, but centre on clarity of roles, responsibilities, resources, and outputs. If the partnership is about a specific new project or venture, the resulting agreement will likely be a combination of the two.

4.1 Language matters

What agreements are called does matter. How documentation is referred to will:

- reflect the state of the relationship
- reflect the purpose of the agreement
- set the tone for the way to continue working together.

There are a number of different agreement types currently in use that infer some degree of partnering intent. The reality is that practical definitions and a continuum of agreements are still very much at the development stage. Many of the terms and meanings below are used concurrently or interchangeably. There are no hard and fast rules for what to call an agreement.

In order to start discussions that may lead to some more rigorous terminology, here are some common agreement types and some possible meanings:

- **Charter/accord** – generally a simple document that records high-level commitment to a vision, and principles and protocols for working together.
- **Communication agreement** – generally identifies key contacts for projects that involve two or more agencies and identifies processes for “talking” together on a regular basis.
- **Memorandum of understanding** – a more traditional term that has been used to capture high-level agreement between parties. It has a connotation of being more formal and doesn't have a particularly warm or relational feel to it. However, it effectively sets out areas of shared interest and joint activity without necessarily embracing everything that partnering implies.
- **Relational contract** – a hybrid agreement that includes elements of working together or partnering and a contract for specific services.
- **Partnership or partnering agreement** – reflects shared visions, processes and, frequently, roles and responsibilities for action and resourcing etc. As there may be significant implications of being in partnership with another agency, as noted in appendix 1, it may be preferable, and more accurate, to develop a partnering agreement. This latter term is more flexible and reflects a much wider range of collaborative arrangements.

There are also new types of agreements being developed in the social services arena. These include **integrated contracts**, a process by which some government agencies bring together a number of bilateral service contracts with individual community providers⁸ into one contract (or groups of contracts). This promotes better coordination between funding agencies and encourages closer working relationships between funders and community organisations. Ultimately, this leads to more effective use of resources to improve community wellbeing⁹ outcomes.

⁸ Community providers working under an integrated agreement/contract have to meet a number of criteria such as proven track record, robust governance structure, & strategic vision/mandate in place, meet government's quality assurance requirements, provide services funded by a number of government agencies for client groups with complex needs and want to participate. From: Funding for Outcomes - Integrated Agreements, what it means for Provider Agencies; Ministry of Social Development, September 2004.

⁹ Funding for Outcomes – Integrated Agreements, what it means for Funding Agencies; Ministry of Social Development, September 2004.

4.2 Which one, when

An agreement will and should reflect the history between agencies and “where you are at” in your relationship. For example, if the relationship between the parties is very new, discussions and commitments are likely to be at a high strategic level, with potential joint projects still some way from being defined. In cases such as these, a **charter** should be considered.

A charter generally is a short (frequently one page) document that acts as the umbrella or foundation document for a partnering arrangement. It usually includes the initial purpose and principles for working together, along with signatures of participating agencies and a date. It is important to include a date where a charter is seen as a foundation document. A date is an important historical marker and can also act as a helpful trigger point for review (See monitoring in section 5.1).

Parties that have been talking or working together longer are more likely to be clear on specific actions and to be thinking about a joint work programme that will lead them closer towards their shared goals. In contrast to the example above, this situation is more suited to a **memorandum of understanding** or **partnering agreement** (see section 5). These types of agreements are generally longer and more detailed, and frequently have some kind of a work programme attached.

An agreement could, of course, begin with a charter and move to a more detailed partnering agreement over time.

Given current interchangeable terminology issues noted earlier, it is not easy to identify a natural hierarchy of agreements. To guide any agreement selection some trigger points related to the agreement types described in 4.1 are noted below:

Agreement Type	Triggers	Comments
Charter/accord	<ul style="list-style-type: none"> Working together for the first time probably at the cooperation box in the partnering Continuum (see 1.2) at the start of the collaboration process & need a foundation document multiple parties involved still at a high level/strategic phase shared work programme or action plan not developed yet useful for capturing and catalysing good will and intent rather than action. 	<ul style="list-style-type: none"> Usually one page signing is symbolic, usually involves political/agency heads.
Communication agreement	<ul style="list-style-type: none"> Large organisations involved lots of missed or messy interactions currently Need to simplify/clarify who talks to who about what and when need for better dialogue and regular information sharing probably relates best to the information sharing box of partnering continuum – with the agreement “institutionalising” what is generally an informal process. 	<ul style="list-style-type: none"> Strong internal communications processes required to ensure success.

Agreement Type	Triggers	Comments
<i>Relational contract</i>	<ul style="list-style-type: none"> • Have specific services and funding that one party will deliver on behalf of the other • want to build or deepen relationships between parties over time • ready to explore potential common ground and opportunities for future collaboration between the parties. 	<ul style="list-style-type: none"> • Probably best relates to the cooperation box of partnering continuum (or possibly collaboration).
<i>Memorandum of understanding</i>	<ul style="list-style-type: none"> • Have clarity on the purpose for working together • have broad agreement on how you'll work together and what you'll do • want to keep the relationship fairly formal and clearly detail the expectations, tasks, processes etc • agreement may be quite lengthy to cover off all the details and to minimise risks. 	<ul style="list-style-type: none"> • Unlikely to include detail on background to the parties or their coming together • language generally quite formal and often legalistic • best relates to collaboration box of continuum.
<i>Partnering agreement</i>	<ul style="list-style-type: none"> • Genuine willingness to come together and work in partnering ways • broad agreement on shared vision and protocols for working, processes and mechanisms to support shared working • shared work programme or action plan easily identified. 	<ul style="list-style-type: none"> • Documentation of funding arrangements may sit separately to overarching partnering agreement • best relates to collaboration box of partnering continuum, possibly partnership box– depending on relationship between the parties.
<i>Integrated contracts</i>	<ul style="list-style-type: none"> • 3 year contracts based on jointly agreed common outcomes • multiple funders including local government can participate • an agreed monitoring framework that aligns reporting, audit and other monitoring tools • improved power balance between funders and the provider • a whole-of-government, collaborative contract management process that supports service improvements. 	<ul style="list-style-type: none"> • May involve the philanthropic funders in time • see section 6.7 below.

4.3 The Process of “doing”- negotiating what’s on paper

The process of putting an agreement together can sometimes make or break a partnering arrangement. There will always be a need to balance process and action as:

- some of the “how to” actually comes from doing things together
- the partners may need to quickly achieve things on the ground to demonstrate the benefits of partnering to themselves and/or to other key stakeholders eg. the community¹⁰
- agreement processes can get bogged down in the detail and take up huge amounts of time; as a result, people lose interest and sight of the vision that brought them together in the first place and may pull out
- partnering arrangements that are intentionally short term and focused on one off projects do not warrant weeks or months of agreement negotiation or word-smithing – given timeframes, the emphasis needs to be on action.

The process of preparing an agreement should be seen an opportunity to develop something new– something that uniquely reflects the partners involved. For this reason other or previous agreements should be seen as a baseline to build on rather than as models to copy.

4.4 Getting started

One option is to involve a neutral facilitator to guide the agreement development process. This allows all partners to meaningfully engage, rather than having to facilitate, think, and write all at the same time. Sometimes the facilitator will broker or undertake the preparation of the draft agreement.

For those developing their own agreement, look around at what’s been done before, firm up some headings that you’d like to see within your agreement and pull the various partners together around the whiteboard and brainstorm the content together. This collective approach may be the most effective, especially when only a few agencies are involved.

Another approach is to assign a lead agency responsibility for drafting up an agreement for others to look at and comment on. Given the many partnering arrangements that individual agencies are now engaged in, the “lead agency” role is becoming increasingly common. Doing everything in committee isn’t always the most efficient use of time. The proliferation of partnering processes has also meant some agencies have developed useful partnering skills and capacities. Usually, if the partnering agencies have worked together before, they will be more confident in nominating one agency to effectively work on their behalf and report back.

In these instances, it is important that face- to- face engagement still occurs so that relationships are developed and strengthened with different ways of organisational working clearly understood. This issue of “organisational culture” is a key one – an agreement alone will not change cultures. This issue will need to be consciously addressed through agreement implementation phases. Partnering structures and processes may need to be amended on an ongoing basis to more effectively support the partners to achieve their visions and goals.

¹⁰ In the case of Project Twin Streams in Waitakere City, initial community project funding enabled a visible community presence which was the key to growing understanding about how social, economic, environmental and cultural sustainability were linked and also secured buy-in to the project at the community level.

To reiterate, the lead agency role should not be treated lightly. To be successful, a lead agency, and more importantly its representative, must:

- be respected and trusted by those they are working with
- pay close attention to process ie. how things are done, be cognisant of the history between participating agencies and things that will likely work/not work
- be responsive and actively listen for underlying meaning and “red flags”
- respect the uniqueness of each arrangement and appreciate that process, time frames and content will likely be slightly different for each partnering agreement - start with a baseline but expect and be prepared for it to change
- clearly understand that lead agency does NOT mean dominating or decision making agency - partnering is not a top town process.

Once you have a draft agreement that representatives are happy with then sufficient time will need to be set aside for:

- review by individual participants for eg. whether the agreement reflects their agency’s aspirations for working together and audit, compliance processes etc.
- communication, consultation and discussion about the agreement within each agency eg. legal and financial checks
- determining an appropriate approval and signing up process by eg. Chief Executives at a special event, and an associated media plan.