

COLLABORATIVE WORKING

Jean Myrie

Infrastructure Training & Development
Manager

Voluntary Action Luton

Jean.myrie@valuton.org.uk

Current challenges

- Recession
- Funding pressures
- Funders require collaboration
- More competition from other providers
- More competitive tendering
- Increasing need for your services

Collaborative working explained

“Collaborative working describes joint working by two or more organisations in order to better fulfil their purposes, while remaining as separate organisations.”

This may relate to any aspect of a organisation's activity:

Administration, fundraising, resource sharing, campaigning and service delivery.

Collaborative working explained..

- Charities can collaborate in a variety of ways – from very informal agreements to large scale contracts.
- Arrangements can last for a fixed period or be permanent.
- Sometimes a decision to work together can lead to a formal merger of two or more charities.

Collaboration/Partnership

- What is the difference?
- Broadly, collaboration is the generic term for all forms of working together.
- Partnerships are normally governed by some formalities such as having terms of reference or an elected membership

What is a consortia

- “An association of several businesses who are legally bound together to work towards a commonly held objective”
- “two or more economic operators” (Public Contract Regulations)
- i.e. not a network or loose affiliation

Why Collaborate?

- Shift from grants to contracts
- Aggregate Agenda (Collaborative Purchasing)
- Externalisation Agenda (risk being transferred)
- 25% of Turnover: Tender Appraisal Criteria
- Value for Money (Best value)

Incorporation

Does your organisation need to be incorporated?

Powers needed for:-

- partnership working
- to trade
- geographical area

Legal framework

- Public Contract Regulations 28 (2006)
- Public Contract Regulation 45
- Anti competition Law
- TUPE (Transfer of Undertakings) – relates to employment contracts.

(I am not a solicitor so cannot be relied upon to give legal advice)

Legal Agreements

- Bind the organisations together in consortia
- Terms of Reference
- Memorandum of Understanding
- Heads of Agreement
- Contracts and Sub Contracts
- Legal Advice is Essential !!!!!!!

Legal Agreements

- Establish definable boundaries and expectations
- Make clear the roles of each organisation within the consortia
- Provide back up to the trust that already exists
- Act as a practical point of reference
- Serve as a common tool of mediation

Need for Confidentiality & Non Disclosure Agreements

- Supports openness and trust from the outset
- Equally binding on parties concerned
- Business sensitive information such as trade secrets, financial/costing information – deserves to be protected
- **Take legal advice**

Due Diligence: What is it?

- “Due diligence is the steps organisations take to assure themselves that a merger, collaborative or partnership working is in the best interest of their organisations and beneficiaries.”

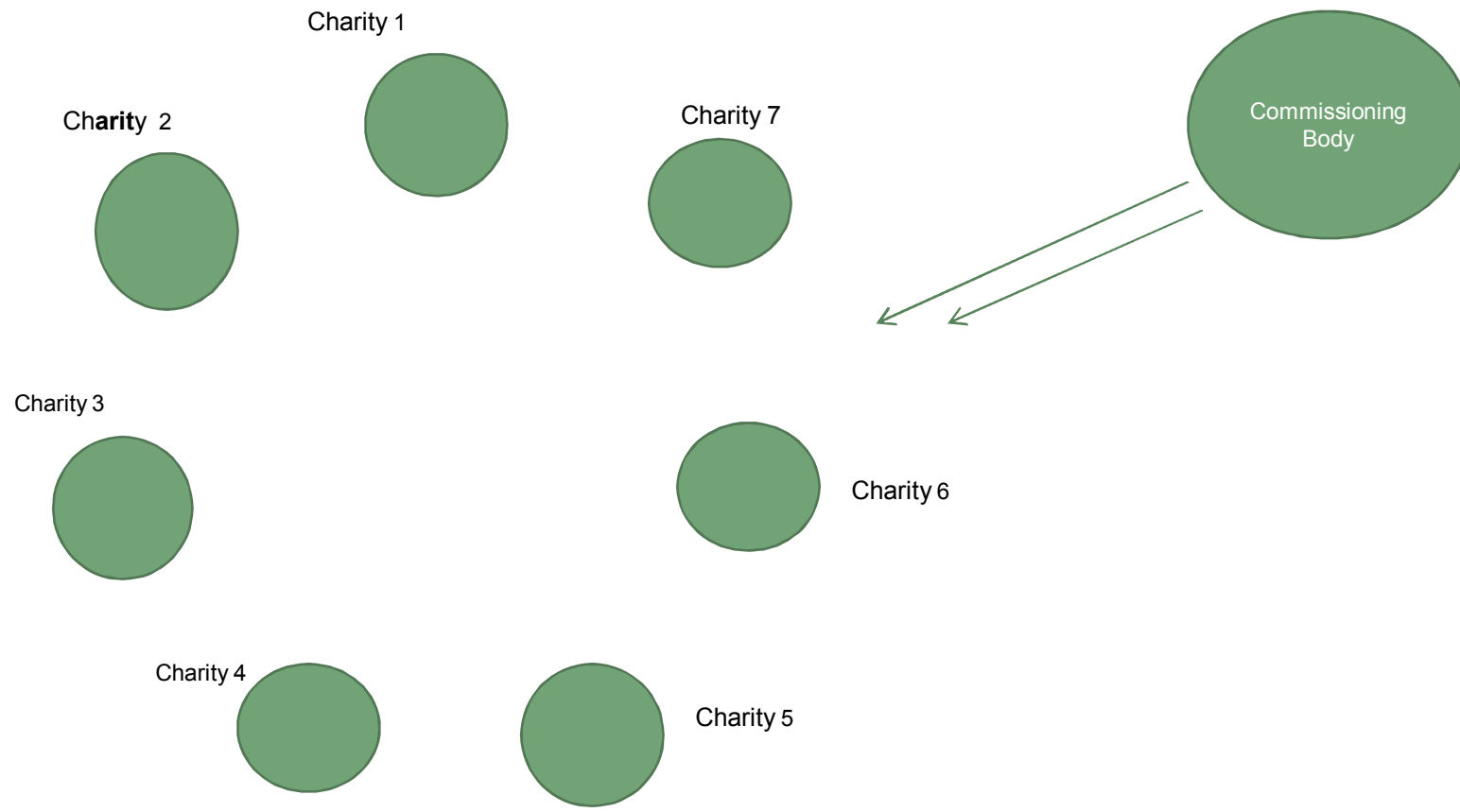
Due diligence and Trustees

- Trustees have a duty to act 'prudently' and identify any potential risks to their organisations before entering into an agreement
- Increase chances of successful collaboration (or merger)
- Identify any problems in advance

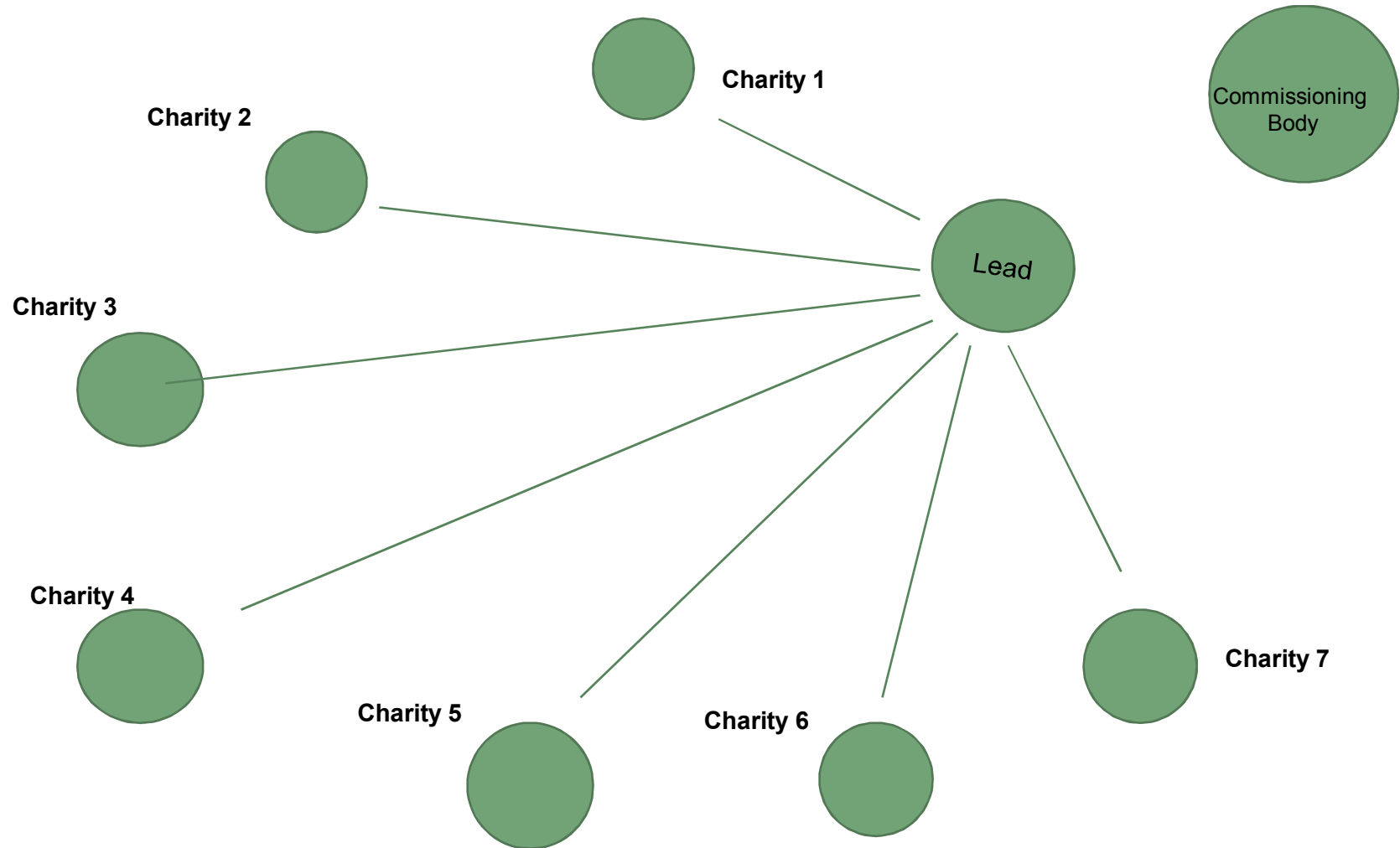
Due diligence is

- An investigation – a *risk assessment*
- **FINANCIAL** – history and accounting systems
- **LEGAL** – (governing documents and/or contracts of employment)
- **REPUTATIONAL** – organisation standing, history, ability to deliver, prior failed contracts etc.
- **STRATEGIC & OPERATIONAL** – (organisational culture, management and IT systems)

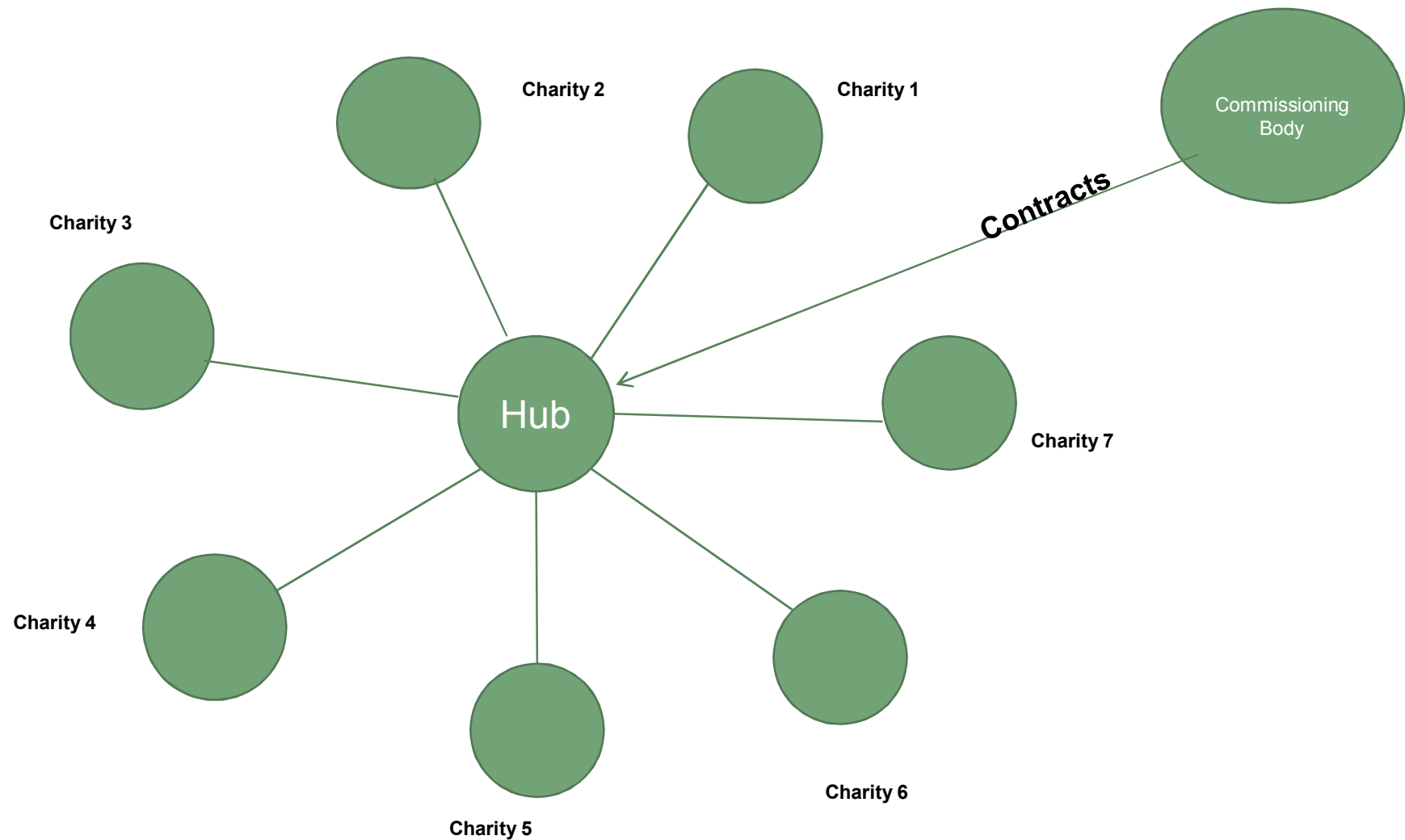
Models of Consortia working: Informal Network



Lead contractor model



Formal consortium



EXERCISE - Joint tendering scenario

Three organisations coming together for an initial meeting to discuss partnership working in order to deliver a public service contract.

As representatives of each organisation has not met before it is about getting to know each other – ‘due diligence’.

Please read the case study paper prior to commencing. It should be noted that these type of meetings should take place well in advance of any seeking tenders.