



Merger chrysalis

Andrew Hedley considers how emotional intelligence can help you to better manage the merger process both internally and with the other side

If you are tasked with delivering a merger, you have a huge amount of leading, persuading, cajoling and encouraging to do in order to realise your objective.

Your audiences are both internal and external. Within your firm, you are responsible for understanding the mood of the wider partnership group and persuading others of the merits of the proposed action (along with the non-viability of the status quo). You then need to lead partners, lawyers and business support personnel on a journey which a number will approach with trepidation and resistance.

Externally, you will need to influence the leadership team of the prospective merger firm, interact with clients and explain the benefits of the merger from their perspective. You also need to engage with the media to ensure that any deal is positioned correctly in the public domain.

Success across such broad tableaux

requires not simply logic, structure and a clear plan, but also a high level of social and emotional intelligence to read situations and react appropriately. This is vital in all stages of a merger in order to motivate, maintain momentum and build confidence. So, what is emotional intelligence and can it be learned?

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Emotional intelligence

The term emotional intelligence was first proposed in 1990 by Salovey and Mayer, who described it as “a form of social intelligence that involves the ability to

monitor one’s own and others’ feeling and emotions, to discriminate among them, and to use this information to guide one’s thinking and action”.¹

Their work was picked up on by Daniel Goleman who, in 1995, wrote the bestseller *Emotional Intelligence* which he then followed, three years later, with *Working with Emotional Intelligence*.

It had been noted that, while important, pure cognitive ability (i.e. that which is measured by the traditional IQ test) appeared to play only a limited role in why some people were more personally successful than others. Numerous research studies pointed to the importance of emotional and social factors.

Goleman’s work sets out five ‘domains’ of emotional intelligence:

1. knowing your own emotions (i.e. self-awareness);
2. managing your own emotions

- (i.e. self-regulation);
3. self-motivation;
 4. recognising and understanding other people's emotions (i.e. empathy); and
 5. managing the emotions of others (i.e. social or relational skills).

Good leaders score highly in each of these domains. All leaders can actively work to improve their emotional intelligence, whether in a focused way to address specific areas or broadly across all of the domains.

It would be incorrect to assume that those with high levels of emotional intelligence are born, not made. While it is true that each of us possesses an innate level of emotional intelligence, it is possible to improve our abilities across all of the dimensions. This can then lead to improvements in personal effectiveness and performance.

For example, someone wishing to focus on enhancing his empathy could actively consider other people's positions in a methodical and structured way and carefully evaluate other perspectives rather than assume a collective position which is the same as his own.

Similarly, an awareness of body language – both one's own and that of others – can allow a better understanding of underlying feelings to be developed. Reading these non-verbal clues can be immensely powerful and ensure the response or approach that is given is most appropriate.

This ability to stand in the shoes of others and to view the world from their perspective is a key attribute that can be employed both for people management within your firm and externally in negotiation, objection handling and practice development. Within a merger situation, empathy is crucial in allowing one to dig deeper than the pure logic of a particular point and to understand the personal, social and cultural context of the firm.

Through personal development across these areas, productivity can also be improved. This happens through a reduction in conflict and a consequential increase in stability, better understanding of business and personal relationships, improvements in teamwork, reduced stress and better business continuity. In short, the likelihood of success is improved.

Enhanced emotional intelligence can

deliver a range of benefits both for you personally and your firm. Within the context of a merger, being able to operate with high levels of emotional intelligence can result in better outcomes and improved probability of the new firm.

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Merger process

Any merger has a number of well-established stages, within each of which emotional intelligence has a role to play alongside more traditional and logic-driven management processes.

Pre-merger review

The first stage of any merger is to assess one's own position and consider whether a merger or acquisition strategy should be pursued. A merger is a means by which a strategic objective may be realised. Any approach based on a merger offers opportunities and challenges, both of which are potentially significant.

The decision to even embark on a merger process is one that is loaded with emotion. Fears may abound within the partner group ranging from the impact on them personally to the wider implications for the culture and social fabric of the firm. 'Things won't ever be the same again if we merge' is the underlying sentiment for many, regardless of whether or not this is verbalised. Of course, such feelings are generally expressed pejoratively, but that need not be the case at all. Different need not (and should not) mean worse.

The emotionally-aware leader will paint a vision and develop a strategic narrative which describes a future that is better than the status quo and the likely scenarios which will arise from adopting a purely organic approach. It is clear that emotional intelligence has a role to play, even in getting a merger to be seen as a viable option.

In one case, a managing partner spent six months in active discussions to persuade his partners and bring them

NON-VERBAL CLUES IN THE NEGOTIATION PROCESS

✓ **Eyes.** The window to the soul. Avoiding eye contact? Something to hide or very nervous. Constant stare? Feeling the need to dominate or getting angry. Looking around? Bored and disinterested. Eye contact is vital and can communicate a whole range of emotions. It is vital for maintaining the flow of a conversation and for deepening our understanding of how someone is feeling.

✓ **Head.** When a person is in 'evaluation mode', he will often turn his head slightly to one side. The urge to nod slightly will be almost irresistible for someone in agreement with you, whilst even the hint of a shake of the head will send the opposite message. A crease of a smile or ever-so-slightly pursed lips convey quite different emotions.

✓ **Arms and hands.** Arms crossed will generally be perceived as a defensive or even aggressive posture. Open arms and open hands suggest that someone is receptive. Use of the hands to gesture and add meaning or emphasis to what is being said can be very effective. Many involuntary hand movements, perhaps touching parts of the face, may betray nerves or a lack of confidence or belief in what they are saying.

✓ **Body posture.** Leaning or moving the body slightly towards a person will show interest or agreement. Disagreement will be evidenced by movement in the opposite direction, a change of posture away from the speaker or leaning back in the chair.

✓ **Legs and feet.** Legs crossed? Defensive. Legs uncrossed? Nothing to hide, ready to cooperate and trustworthy. Feet flat on the floor send the same positive signal. If you see someone's feet have changed position and are pointing towards the door, then it's time to bring the discussion to a conclusion.

UNDERSTANDING YOUR PARTNERS' DRIVERS

The personal circumstances, career stages and ambition of partners in your firm will vary significantly. It should be no surprise therefore that their reaction to any merger proposal will also differ. These could include:

- ✓ All I can see is opportunity, where do I sign up?
- ✓ I was hoping for a quiet final few years to my career, this looks like turmoil.
- ✓ Worked there once. Hated it. Time for me to dust off the CV and hit the recruitment market.
- ✓ They're a good firm but we're better. Naturally I'll be the head of the new department (a thought that occurs simultaneously across a number of partners in both firms!)
- ✓ They don't have a practice like mine, what a great opportunity to expand my client base.
- ✓ They don't have a practice like mine; this means I'm 'off-strategy', surplus to requirements and will be shown the door in due course.
- ✓ How much is this going to cost? What about my profit share?
- ✓ This sounds like years of tribal warfare and the death of the culture we've prized for so long.
- ✓ I'm sure this will work out well and allow us to address some of the underlying issues which we've been aware of for ages.

It should be clear that the same aspect of a proposed merger will send completely different messages to different partners. The negotiating team needs to avoid being overcome by 'group think' and retain its ability to see the proposal through the eyes of individual key partners and important constituencies within the firm. By so doing, it gives itself the best chance of dealing with objections and securing approval to proceed.

round to the realisation that merger was the best route to secure the firm's future and that it offered real advantage over the other options available. With the backing of a strong consensus, he was then able to enter into the merger process with confidence.

Regardless of the strategic or management logic surrounding the merger option, it will only be through management of the firm's culture that any approach will be able to progress. The ability to work with the partner group and the wider firm, to change attitudes and shape culture is a cornerstone of successful leaders. Using the principles of emotional intelligence to navigate these cultural waters can be one of your most powerful tools.

Evaluating targets

Having embarked on a merger-based strategy for growth, the next stage is to create a clear understanding of the characteristics of any prospective candidate firm. Such analysis will typically be built up from public domain sources, supplemented with any insights that can be gleaned from third-party sources such as intermediaries and the personal knowledge of the partners.

At this stage, the focus will be on considering the 'paper fit', but it will also be important to consider, as far as possible, cultural issues. Some partners will be keen to give you the benefit of their opinion as to the suitability of potential candidate firms (whether based on their personal experience or what they have gleaned from the rumour mill).

You will need to make value judgments about the opinions that are expressed, based on perceptions of the objectivity of the source and whether or not any self interest is at play. While the clearly-expressed views of someone known to be fair and objective may carry more weight than the opinion of someone with clear self interest and a bias towards a particular firm, most feedback will be more nuanced and the political position of the source less clear.

Interpreting the signals provided by tone of voice and body language, combined with a good understanding of the emotional drivers of the source, will be key in deciding how much weight to attribute to information provided.

Assessing cultural fit

There has been much written about the importance of cultural fit in merging firms. However, understanding what this means in practice, mapping culture and analysing how the coming together of two organisations will play out, is as much art as it is science.

"Dig deeper than the stated policies and procedures to consider how effective they are in practice"

Many merger discussions fail to get past the first base because the negotiation teams do not perceive that the two cultures will be able to integrate successfully. While the paper fit may be superb with potential synergies across clients, geographies, sectors, practices and cost bases, it is often a lack of belief in the cultural fit that scuppers the deal.

Such differences may be manifested in physical structures or processes (or the lack of them) or simply as a 'gut feel'. For example, a firm with a more delegated style of management may perceive inefficiencies and sluggishness in a merger partner that is more consensual in nature. Looked at through the other lens, the more authoritarian approach may be viewed as bullying, divisive and ultimately self destructive.

Both psychological responses may be valid, but the emotionally intelligent approach would be to examine the reality of each perspective and the entrenched position which has developed. In many situations, the biggest barriers will be those of language and perception rather than the day-to-day operating models of the firms. These will likely be very similar in many key areas, creating a new perspective for both parties and thus allowing compromises to be identified and progress made.

Due diligence also needs to look beyond matters of finance and risk into operational management and the strength of the client franchise. Dig deeper than the stated policies and procedures to consider how effective they are in practice, how



strongly they form part of the cultural web of the firm and how behaviours evidence them in practice.

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Managing negotiations

In any negotiation, some points become matters of principle or precedent carrying far greater weight than one would expect from a logical analysis of the situation. They are potential dealbreakers, so it is important to recognise them as early as possible in the negotiation process.

The most obvious example is the naming of the merged firm. Where the new name is to be some form of combination of the old, for example, which antecedent firm's name appears first? Law firm mergers are littered with the clumsy and often unpronounceable-in-a-single-breath consequences of compromise on this issue.

Other examples might include the naming of practice groups – is it to be real estate or property, dispute resolution or litigation? This may be perceived as showing dominance of one side over the other. Similar tensions can arise over job titles with the terms lawyer,

solicitor, associate, director all being used interchangeably by firms but with a need for consistency in a newly-merged entity. All too often, the underlying sentiment is “I don't really care about this provided it is done my way!”

By having an awareness of possible emotionally-charged issues and their context, it is possible to manage discussions, deal with misconceptions and identify possible compromises at an early stage. Ignoring such matters until late in the process – whether through a lack of awareness or an unwillingness to table them – represents a major risk to the overall success of the negotiation.

It is sadly the case that, in all too many merger negotiations, the elephant in the room is not confronted until late in the process, at which point discussions will often be in the public domain. Bringing these to an end without either or both firms suffering negative publicity is difficult to achieve. Emotionally astute leaders will not allow such situations to occur.

Post-merger integration

Integration has, of course, its physical and operational aspects. The bringing together of premises, systems, IT, structures and processes are potentially complex and require careful planning and good execution. These are, however, traditional challenges to which the project manager and management team should be able to rise.

More important for the longer term success of the business will be the alignment of cultures, ongoing communication and engagement of people

at all levels. This is where leaders with high emotional intelligence come into their own; their instinctive understanding of how it feels to be in the position of a range of people in the firm means that they are able to engage with empathy.

Understand that, for many, a merger means an increase in stress and uncertainty. The concern on the ground is not with high-level strategy but rather with more immediate and pragmatic issues such as job security and career opportunities. Being responsive to concerns such as these, without pretending that difficult decisions may not have to be made to deliver any merger dividend, builds confidence and trust in you as a leader.

Strong leadership

Strategy development and the identification, pursuit and delivery of a merger are activities which rely on strong leadership. Emotional intelligence has a central role to play in the merger process. By developing an approach which is centred on emotional intelligence, you can increase your firm's chances of both securing merger opportunities and delivering positive long-term outcomes for your firm. ¹⁰

Andrew Hedley has been advising law firm leaders on strategy and change management for more than 15 years (www.hedleyconsulting.com)

Endnotes

1. See ‘Emotional Intelligence’, P Salovey and J Mayer, *Imagination, Cognition and Personality*, Vol. 9 (No. 3), 1990