



BUSINESS COUNCIL
OF CO-OPERATIVES AND MUTUALS

Joint Standing Committee on the NDIS
PO Box 6100
Parliament House
Canberra ACT 2600

16 August 2017

Dear Sir/Madam

Submission to inquiry into transitional arrangements for the NDIS

The Business Council of Co-operatives and Mutuals (BCCM) thanks the Joint Standing Committee on the NDIS for the opportunity to provide feedback in relation to transitional arrangements for the NDIS.

The BCCM has previously made a number of submissions to NDIS-related inquiries, which set out our general position. We refer the Committee to these submissions, listed in the appendices attached.

Broadly speaking, we are concerned about market readiness and opportunities for the kind of transformational innovation that is needed in a scheme like the NDIS if Participants are to exercise full choice and control. We believe that by encouraging the formation of more co-operatives and mutuals – especially those where the members are consumers and workers – could be part of a broader strategy to change the culture of service provision to one that is truly member centric.

The NDIS is a path-finding social policy reform.

Implemented well, there is a once in a life-time opportunity to transform the lives of people with significant and likely to be permanent disabilities so they can access the reasonable and necessary supports that empower them to lead ordinary lives.

Our experience including from overseas, tells us that in most contestable markets for human services such as the NDIS, if the aim is for higher quality, greater user and worker well-being, more community involvement, greater accountability at an efficient price, then the best kind of organisations are mutuals of some kind. The type of mutual might differ in different markets. Sometimes they will be user-owned; sometimes employee-owned; sometimes multi-stakeholder. But if the design is right, again, both theory and evidence suggests that they will generally perform better on almost any criteria (including productivity) than the alternatives.

In reviewing the transitional arrangements for the NDIS, the Parliamentary Joint Standing Committee has an opportunity to identify what cultural changes are required among service providers to enable NDIS Participants to exercise full choice and control.

Broadly, our position is that while co-operative and mutual organisation forms can be used to increase the realisation of the policy goals behind the NDIS (great consumer choice and control, quality services, efficient delivery), the enabling environment for co-operatives needs to be improved if there is to be greater uptake by people with disability, their families and support workers. A recent Senate Inquiry identified the barriers to the formation of more co-operatives and mutuals and 17 recommendations received by bipartisan support.

Assisted by two start-up co-operatives operating in the NDIS – SILC and Co-operative Life – combined with our own advocacy and business development experience, we have compiled some feedback on some of the terms of reference including suggested recommendations.

Our submission is structured as follows:

1. About the BCCM
2. About Co-operatives and Mutuals
3. BCCM response to Terms of Reference
4. Recommendations
5. Appendix A: BCCM NDIS and Human Services submissions
6. Appendix B: Senate Economics References Committee inquiry into cooperative, mutual and member-owned firms recommendations

We hope to have the opportunity to meet with the Joint Standing Committee to expand on the issues we have raised and to provide more case study information.

Thank you for the important work you do in making sure the NDIS realises the full intent of the NDIS reforms.

Yours faithfully

Melina Morrison
CEO

1. About the BCCM

The BCCM is the peak body for Australian co-operatives, mutuals and member-owned businesses. The BCCM represents a diverse range of businesses operating in sectors including agriculture, finance and banking, insurance, motoring services, health services, aged care, disability employment, education, indigenous services, social housing and retail.

The BCCM advocates for recognition of the sector and for measures that create a level playing field between co-operatives and other businesses, including implementation of the recommendations of the Senate Economics References Committee report into Cooperative, mutual and member-owned firms.¹

2. About Co-operatives and Mutual Enterprises

Co-operative and mutual enterprises (CMEs) are a significant contributor to the Australian economy: 8 in 10 Australians are members of at least one CME and annual turnover of the top 100 CMEs (excluding member-owned superannuation funds) reached \$30.5 billion in FY2014/2015.² Together with mutual superfunds, it is estimated that the CME sector contributes 7 per cent of GDP. There are 15 million members of CMEs in Australia.

The distinguishing feature of all CMEs, regardless of what legal form they use, is that they are owned by their members and operate for member benefit. Member benefit can mean a wider range of social or non-financial benefits compared with the financial returns enjoyed by a shareholder. Membership is tied to contributing to or making use of the CME; this ensures the CME is made up of people who share its common purpose.

The vast majority of CMEs are incorporated and regulated under one of two legislative regimes: the State/Territory-based Co-operatives National Law (the CNL)³ or the Commonwealth Corporations Act. Whether a company under the Corporations Act is a co-operative or mutual will depend on its constitution.

3. BCCM Response to Terms of Reference

The BCCM's submission has been assisted by two start-up co-operatives operating successfully in the NDIA - [SILC](#) and [Co-operative Life](#).

Term of reference a) The boundaries and interface of NDIS service provision, and other non-NDIS service provision, with particular references to health, education and transport services

The transition from state-based funded services to NDIS funded supports has not been smooth and could be due to:

¹http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Cooperatives/Report

² Business Council of Co-operatives and Mutuals, National Mutual Economy Report 2016, 17. <http://bccm.coop/wp/wp-content/uploads/2016/11/BCCM-NME-Report-2016.pdf>

³ CNL, adopted in all States and Territories except Queensland. Western Australia has adopted consistent legislation.

- NDIA Planners not having the right information about what supports are considered within the scope of NDIS funding and therefore what should be paid for as Reasonable and Necessary
- lack of good quality data transfer from state-based services to NDIA systems to be able to inform Plan Build (services & costs)

There is the risk that the NDIS could potentially be paying for more supports than needed, for example school transport which is the ongoing responsibility of the states, not funded through NDIS packages.

Recommendations

The BCCM recommends that good quality information for Planners, LACs and Partners about what the NDIS will fund as Reasonable and Necessary and what sits within the mainstream services. In the spirit of consumer direction, this could also include a consumer rating of planners.

Term of reference b) The consistency of NDIS plans and delivery of NDIS and other services for people with disabilities across Australia

There have been inconsistencies in NDIS plans due to a range of factors such as:

- The timing of when Participants received their first plan
- Whether the plan was done by a NDIA planner or a Local Area Co-ordinator
- The quality of data migration from States to the NDIA, and
- The extent to which groups of participants, or even 2 children in the same family, could access the same planner and therefore have a holistic assessment process and plan build;

Another factor affecting consistency of plans is the ability of the NDIS Participant or representative to understand what was required of them in the first plan conversation. The experience of our members who have assisted with this submission demonstrates that people who were more prepared felt better equipped to answer the questions and more in control. Conversely some Participants over-prepared and potentially wasted their time and effort and felt disgruntled by the process. We also experienced some Participants' data being misplaced by Local Area Co-ordinators (i.e. lost) and having to be resubmitted. There have been many Participants who have had to tell their story multiple times due to staff changes - changes in Local Area Co-ordinators, NDIA planners etc. - and information getting lost and misunderstood in this process.

Recommendations

The BCCM recommends:

- There needs to be a greater focus on providing good quality information for Participants and their families about how to prepare for first plans. Sessions delivered by NDIA & Local Area Co-ordinators were not thorough enough and didn't demonstrate their deep understanding of the process.

- Greater attention is needed to building the capability of NDIA planners and Local Area Co-ordinators about a contemporary understanding of disability, its impact on families / carers and how to deal with families who are in stressful caring roles and don't have time to explain their story multiple times or the impact of their child with challenging behaviours.
- First plans need to be driven by a strength-based approach, about achieving long-term functional outcomes and improvements rather than a process that is driven by meeting daily targets

Term of reference d) Any other related matters

Innovation

Innovation is being stifled by a focus on process - getting people into the NDIS as quickly as possible, the paucity of data from state-based services to NDIA and the inability of the NDIA's systems to be able to capture the data correctly and provide it to the people on the ground doing the plans.

Despite this, there has been innovation but it takes time to develop new service models and to see long-term outcomes that the NDIS is looking for.

The BCCM considers there needs to be a focus on collecting data about the life-time savings of people with a disability being supported in more innovative ways that keep families together. We need to measure: the savings to health, education and transport systems by people with a disability not being admitted to psychiatric wards; parents being able to stay in the workforce because they have the right caring supports in place; people with disabilities being able to use public transport because they're acquiring skills from good quality travel training etc.

Greater attention is needed to evidence based research that demonstrates these outcomes and this research needs to be widely disseminated

Market readiness and development

The BCCM is concerned about market readiness among providers in the NDIS. From what we see, insufficient thought and resources have gone into bringing about the kind of transformational innovation and cultural change from the market that is required to transform the life experiences of NDIS Participants.

The co-operative and mutual business model aligns very well with the intent of the NDIS. This is because co-operatives and mutuals exist to meet a need among their members, who can be consumers, workers, enterprises or multiple stakeholders. (e.g. such as in disadvantaged communities or place based initiatives).

There is no other corporate form that places members at the heart of the business model. There are seven member-focused co-operative principles on which co-operatives and mutuals are founded:

1. Open and voluntary membership
2. Democratic member control
3. Member economic engagement
4. Co-operation among co-operatives

5. Autonomy and Independence
6. Education Information and Training
7. Concern for Community⁴

A number of important government initiated inquiries have highlighted the alignment of the co-operatives and mutuals with the NDIS:

Senate Economic References Committee

“The co-operative and mutual sector be represented in government policy discussions, and is actively promoted as a possible option for service delivery particularly where community based initiatives are being considered”

The Harper Review

“As user needs and preferences continue to evolve, public service mutuals could play a greater role in meeting individual and community needs, possibly in conjunction with other significant government initiatives. Indeed, the BCCM’s White Paper suggests that NDIS trial sites could prove ideal for piloting a disability staff co-operative”.

The McClure Welfare Review

This review observed that *“there was an opportunity for co-operatives and mutuals to have a larger role in service delivery where the business model is founded on member participation and democratic control which creates obligations and responsibilities on those members”.*

The BCCM has supported a number of small start-up co-operatives to grow in the NDIS, including [SILC](#) and [Co-operative Life](#). SILC is a family-governed enterprise co-operative providing disability accommodation and supports. Co-operative Life is a worker co-operative providing social supports and personal care in both the NDIS and aged care.

Both these co-operatives tell a story of thriving in the NDIS. They are small and agile so they can respond quickly to the changing needs of their customers. They operate efficiently because, through high levels of member economic participation and engagement, members do many tasks voluntarily. In the case of worker co-operatives, there is very significant evidence about their efficiency and effectiveness when compared to other forms.⁵

In the UK, over 100 Public Service Mutuals were formed mostly in health and community services. This coincided with governments divesting some services such as health, housing and social care to the non-government sector. A mutual model

⁴ These principles were agreed on by the International Co-operative Alliance in 1995 but are based on early iterations.

⁵ Perotin, Virginie (2014) “Worker Co-operatives: Good, Sustainable Jobs in the Community”, Journal of Entrepreneurial and Organisational Diversity, 2 (2), 2014, p34-47

⁵ Perotin, Virginie “What do we really know about worker co-operatives?” in a publication for Co-Operatives UK

⁵ Le Grand, Julian Public Service Mutuals: The Next Steps A Mutuals Task Force Report

⁵ Perotin, Virginie (2012) “The Performance of Workers’ Co-operatives” in P. Battilani and H Schroeter (eds) A Special Kind of Business: The Co-operative Movement 1950 – 2010...and Beyond, Cambridge University Press.

was seen as an alternative to other organisational forms and as a way of retaining a public interest – community ownership – in essential social infrastructure.⁶

To stimulate debate in Australia, in 2014, the BCCM published a White Paper on Public Service Mutuals⁷ drawing on the UK experience and highlighting the opportunity for co-operatives and mutuals to be more involved in health and community services. Whilst some state governments have shown interest in the co-operative and mutual business model, as an alternative to other divestment options, the take-up in the NDIS has been very slow.

The BCCM considers this is not necessarily about an unwillingness to adopt the model in the NDIS, rather it's a reflection of the priority that has had to be given to NDIS roll-out. Indeed, some significant stakeholders in the NDIS have commented that a “*second wave of innovation*” will be needed as the NDIS beds down and that this will be vital if NDIS Participants are to have choice and control.

There are some important observations from the UK OPM (2010) in its evaluation of the UK experience with Public Service Mutuals. This could guide State Governments and the NDIA in decisions about the divestment of disability services to the non-government sector. In the case studies it evaluated, the OPM UK observed that the motivation for transferring ownership influenced the type of organisation form most suited to deliver the services.

The OPM UK concluded:

- If the primary motivation for transferring ownership is to reap the benefits of increased productivity and improved cost effectiveness, then the evidence suggests that is most efficiently provided through employee-owned organisations.
- Where the chief motivator for moving to a different model of ownership is to create a sense of ownership and responsibility within a specific recognisable community – for example in relation to a public asset such as a park – it is often most appropriate for a public service to consider establishing a community-owned organisation; and
- If the desire to have greater engagement between staff and users or citizens is the strongest motivator (from a belief that this leads to innovation and higher staff and user satisfaction), then an employee plus other stakeholder such as service users – or multi-stakeholder organisations – is the best ownership form.

⁶ Mayo, Ed (undated) *The case for a Co-operation Policy* in “Making it Mutual: the ownership revolution that Britain needs edited by Caroline Julian for ResPublica.

⁶ Office for Public Management (2010) *New models of public service ownership a guide to commissioning, policy and practice* Public Interest Research Report

⁶ Office for Public Management UK (2010) *Shared Ownership in Practice Findings from case studies of employee and community ownership of public services* Public Interest Research Report.

⁷ BCCM (August 2014) *Public Service Mutuals: A third way for delivering public services in Australia* WHITE PAPER

The UK experience also showed the benefits of co-operatives and mutuals particularly in terms of achieving high levels of consumer and staff engagement and through this, improved productivity.⁸

The BCCM considers it is regrettable that in Australia, we use a simplistic binary way to compare the attributes of providers in programs like the NDIS – i.e. for profit and not for profit. What this does is overlooks that there is a third way, which is member-owned organisations.

The Senate Economics References Committee inquiry into cooperative, mutual and member-owned firms (2015) made 17 recommendations that received bi-partisan report about the need to remove the barriers that currently limit the participation of co-operatives and mutuals in the Australian economy.⁹ The 17 recommendations are attached to this submission. They mostly address barriers concerned with regulation, education and awareness.

4. Recommendations

The BCCM has some concluding recommendations to make, in addition to those earlier recommendations we have suggested on specific terms of reference.

We have been advocating strongly for the immediate and complete implementation of the 17 recommendations of the Senate Standing Committee. Some progress is being made especially around the barriers that limit co-operatives and mutual to raise capital. However, we would argue that in considering the transitional arrangements for the NDIS, the Joint Standing Committee needs to make sure that there are no impediments to innovation and market development occurring that would see more co-operatives and mutual emerge in the NDIS over time.

Further, we would say that as occurred in the UK, consideration could be given to some positive encouragement to enable some forms of mutual or co-operatives to emerge, especially those where Participants (as is the case with SILC) and Workers (as is the case with Co-operative Life) are members.

The BCCM would welcome having the opportunity to address the Joint Standing Committee on Transitional Arrangements for the NDIS to expand on our observations and recommendations and to share with the Committee more information on successful case studies in Australia and the UK.

⁸ Wardle, Len The Co-operative Group: Lessons from the Past—Advice to the Future in a case study for ResPublica Making It Mutual: The Ownership Revolution that Britain Needs edited by Caroline Julian.

⁹ Senate Economics Reference Committee Inquiry into Cooperative, Mutual and Member-Owned Firms (2016) Final Report

Appendix A: BCCM NDIS and Human Services submissions

Submission in response to the Productivity Commission Draft Report on Introducing Competition and Informed User Choice into Human Services¹⁰

Submission in response to the Productivity Commission NDIS Costs Position Paper¹¹

Submission to the Senate Community Affairs References Committee - Inquiry into delivery of outcomes under the National Disability Strategy 2010-2020 to build inclusive and accessible communities¹²

Submission to the Productivity Commission inquiry into NDIS costs¹³

Submission to the Productivity Commission inquiry into Human Services - Second Stage¹⁴

Submission to the Productivity Commission inquiry into Human Services - First Stage¹⁵

Joint Standing Committee on the National Disability Insurance Scheme on accommodation for people with disabilities and the NDIS¹⁶

Submission to the Joint Standing Committee on the National Disability Insurance Scheme¹⁷

Submission to Review of Australia's Welfare System¹⁸

Appendix B: Senate Economics References Committee inquiry into cooperative, mutual and member-owned firm's recommendations

Recommendation 1

2.32 The committee recommends that the Commonwealth Government ensures that a national collection of statistics and data is undertaken to provide an accurate picture of the scale and extent of the co-operative and mutual sector.

Recommendation 2

3.28 The committee recommends that co-operative and mutual sector be better represented in government policy discussions, and is actively promoted as a possible option for service delivery particularly where community based initiatives are being considered.

¹⁰ <http://bccm.coop/wp/wp-content/uploads/2017/07/subdr529-human-services-reform.pdf>

¹¹ <http://bccm.coop/wp/wp-content/uploads/2017/07/subpp0329-ndis-costs.pdf>

¹² http://bccm.coop/wp/wp-content/uploads/2014/05/sub37_BCCM.pdf

¹³ <http://bccm.coop/wp/wp-content/uploads/2014/05/sub0091-ndis-costs.pdf>

¹⁴ <http://bccm.coop/wp/wp-content/uploads/2014/05/sub470-human-services-reform.pdf>

¹⁵ http://www.pc.gov.au/_data/assets/pdf_file/0008/204938/sub216-human-services-identifying-reform.pdf

¹⁶ http://bccm.coop/wp/wp-content/uploads/2016/03/BCCMsub_JSC_NDIS_DisabilityAccommodation_Mar16.pdf

¹⁷ http://bccm.coop/wp/wp-content/uploads/2014/05/BCCMsubmission_NDIS.pdf

¹⁸ http://bccm.coop/wp/wp-content/uploads/2014/08/BCCM_Welfare_review_Submission.pdf

Recommendation 3

3.29 The committee recommends the Commonwealth Government work with states and territories to develop a program of supports to encourage the establishment of new co-operatives and mutual enterprises.

Recommendation 4

3.49 The committee recommends that a mutual enterprise is explicitly defined in the Corporations Act 2001, and its associated regulations.

Recommendation 5

3.51 The committee recommends that the role of directors in mutual enterprises is defined in the Corporations Regulations to align with the proposed definition of a mutual enterprise in the Corporations Act.

Recommendation 6

3.75 The committee recommends the Commonwealth Government work with states and territories to ensure the continual improvement to advice, guidance and information provided at all stages in the establishment, governance and regulation of co-operatives.

Recommendation 7

3.80 The committee recommends that the Commonwealth Government to work with all relevant stakeholders to undertake a program of education and training to inform them about the role of co-operatives and mutual.

Recommendation 8

3.81 The committee recommends that the Commonwealth Government examine ways in which it can improve the recognition and understanding of the co-operative and mutual sector in the national secondary school curriculum and that tertiary institutions consider the inclusion of co-operative and mutuals in accounting, business, commerce, economics and law degrees.

Recommendation 9

3.82 The Committee recommends that professional accreditation bodies, such as the Law Society and Institute of Chartered Accountants, require a demonstrated knowledge of the co-operatives and mutual structure before it will license its members to practice accounting or law.

Recommendation 10

3.92 The committee recommends that the Commonwealth Government amend the Indigenous Advancement Strategy to allow registered co-operatives the same access to allow levels of grant funding as other entities.

Recommendation 11

3.93 The committee recommends that the Commonwealth Government review, and where necessary amend the eligibility criteria for grants and funds across all of government grants and program guidelines to ensure that co-operatives and mutual enterprises are not excluded on the basis of their business structure.

Recommendation 12

4.17 The committee recommends that the co-operative and mutual sector be considered when the government is preparing a Regulatory Impact Statement that accompanies new regulatory policies.

Recommendation 13

4.18 The committee recommends that the Commonwealth Government liaise with its state and territory counterparts to ensure that the regulatory burden for small and medium sized co-operative and mutual enterprise aligns with the needs of these organisations and ensures they are not disadvantaged relative to companies of a similar size.

Recommendation 14

4.26 The committee recommends that the Commonwealth Government closely monitor the progress of the International Accounting Standards Board in developing solutions to bring co-operative shares under the definition of capital under AASB 132, and, where possible, facilitate equivalent amendments as expeditiously as possible.

Recommendation 15

4.42 The committee recommends that Commonwealth and State Governments support the formalisation of some of innovative market-based approaches to raising capital for small and medium sized co-operative and mutual enterprises, in the form of advice and information, as they become available.

Recommendation 16

4.45 The committee recommends that APRA set a target date for the outcome of discussions with the co-operative and mutuals sector on issues of capital raising and bring those discussions to a timely conclusion.

Recommendation 17

4.49 The committee recommends that the Commonwealth Government examine proposals to amend the Corporations Act 2001 to provide co-operative and mutual enterprises with a mechanism to enable them access to a broader range of capital raising and investment opportunities.