power to change | business in community hands

Response to the consultation on the future definition of Public Sector Mutuals by Ailbhe McNabola, Head of Research and Policy

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About us

Power to Change is an independent charitable trust set up in January 2015 to grow and support community business across England. Over ten years, with a £150 million endowment from the Community Lottery Fund, Power to Change is supporting community businesses to create better places across England. We want to support people to take action to address local challenges, enabling them to control vital assets and services that might otherwise disappear, or start new businesses themselves in response to local needs. At the heart of our vision is the devolution of power to local communities. We believe that putting business in community hands makes places better.

In this response, we have focused on questions 1-4. We would be very happy to discuss further any of the points raised here.

Q1a. Do you agree to removing the requirement for mutuals to have originated in the public sector?

YES

1b) Please provide further information to support your response

Power to Change agrees that public sector mutuals (mutuals) should not need to have spun out of the public sector to meet the definition. Mutuals have many origins and therefore to restrict the definition to those that began life in the public sector risks missing out on innovative organisations and/or organisations that develop from community groups. These are particularly important in deprived areas, where they are proved to have a greater reach into deprived communities than the public sector or even other parts of the social sector.[1]

Power to Change's June 2018 report, Community Business in England, records thousands of community businesses delivering public sector services across the UK, almost none of which would fall under the current definition of Public Sector Mutual. These are predominantly in areas of deprivation and are all led by the local community.[2] A broader definition of mutuals would therefore capture the 300 community businesses operating in health, social care and wellbeing; 1,200 in transport; 350 in sports and leisure; 200 arts centres and facilities; and 440 libraries; not to mention 1,650 community hubs that hold information, advice and guidance, education and training, and other public sector services as part of their multi-faceted offering.[3]

The critical differentiator for community businesses from other socially-motivated organisations is the impact they have on their localities by the *means* of their production, and not just the ends. While many organisations deliver valuable and socially beneficial services to a local population, such as healthcare or education, community businesses create a special kind of impact by engaging local people as creators, not just consumers, of their outputs.[4]

We can offer numerous examples from the ranks of our grantees of community businesses that have taken over public sector services and run them better and more profitably. These deserve to be included in the public service mutual family. Bramley Baths is a community-led Edwardian bath house in the suburbs of Leeds. Threatened with closure by Leeds City Council eight years ago, due to a cycle of declining use and unprofitability, the local community worked with the council to arrange a Community Asset Transfer and take over the running of the baths as an Industrial Provident Society. Opened as a community business on 1 January 2013, and now with a 50-year lease, the team have greatly increased the opening hours, are running the pool and gym at capacity and provide space for local groups to meet. They received a grant of £295,000 from Power to Change's Community

[1] See *Community Business Fund evaluation Interim Report*, Power to Change, March 2019, pp 46-54 and *Growth, sustainability and purpose in the community business market in the Liverpool* City Region, Heseltine Institute and Power to Change, March 2019, pp 28-31.
[2] See *Community Business Fund evaluation Interim Report*, Power to Change, March 2019, pp 34, 46-54.
[3] *Community Business in England: Learning from the Power to Change Research Institute 2016-17*, Power to Change, June 2018, p. 8.
[4] Power to Change (2015), *The community business market in 2015*. Section 1.1. Available at http://www.thepowertochange.org.uk/wp-content/uploads/2016/03/PTC-State-of-the-market-2015-research-report-tagged_AW-REV1.pdf

Business Fund in September 2018 to upgrade the pool facilities, which the council would not have been eligible to apply for. The baths now turn a profit and have 41 paid staff. The local community remain in the driving seat: anyone can join Friends of Bramley Baths for an annual fee of £1, entitling them to vote at AGMs and elect board members.[5]

Glamis Hall, a community centre on the Queensway Estate in Wellingborough was scheduled for closure in 2014 by the local borough council, which could no longer afford to run it at an annual loss of £170,000. The local community formed Glamis Hall For All and bought the venue from the council for £1. Under community management, it has been transformed from a day care centre for the over-50s into a thriving community hub that also hosts a youth club, football and badminton teams, a community meeting room and large hall with kitchen facilities for hire and runs courses such as cooking skills and school holiday clubs. The young, elderly and disabled all mix under one roof. Trading for the benefit of the local community, the centre generates income by hiring out space, running events and its youth and sports clubs, and uses the profits to subsidise the day care centre so it can be run at a more affordable rate.[6]

2a) Do you agree with tightening the requirements on employee influence in line with the below?

The following minimum requirements to be codified in the articles of association or governing documents:

- Direct staff ownership - using tax advantaged share plans, employees become registered individual shareholders of a majority of the shares in the company, or;
- Indirect staff ownership - shares are held collectively on behalf of employees, normally through an employee trust;

Or two or more of the following:

- Elected staff to the Board of Directors
- Staff and/or member voting rights
- Formalised staff forum with direct links to the Board

NO

[5] For more information see https://www.powertochange.org.uk/what-is-community-business/stories/bramley-baths/
[6] For more information see https://www.powertochange.org.uk/what-is-community-business/stories/glamis-hall-for-all/

2b) Please suggest any changes you'd make to the requirements above.

The proposed tightening of requirements for employee influence is welcome but too restrictive, as your own consultation document's states that "it is important to note that many mutuals incorporate ownership, influence or control by **community and user groups** in their governance structures".[7] This requirement omits the community and user-led mutuals, so we recommend that the requirement is expanded to include these. We would be happy to have a follow up discussion to share how we measure community-led governance structures in the community-led businesses that we grant fund.

2c) Please provide further information to support your response.

By restricting your influence requirements to employees, you leave out the far more numerous volunteers and community users that have a stake in governance of community businesses. The community business model that Power to Change promotes has accountability to the local community as part of its core definition and we would expect service users and volunteers as well as the local community to have a say in the running of a community business, whether through a community share offer or other inclusive governance structure. Defining influence as relating to staff and members only would represent a step backwards. SEUK also reports that that 70% of social enterprises actively involve their beneficiaries or service users in decision-making, and over half involve the wider community in their decision making in some way (54%).[8]

Figures collated by our Research Institute show that community businesses across England employ a total of 33,600 staff, with the average community business employing 9 staff. Those same businesses use 125,200 volunteers, however, with the average community business using 31 active volunteers.[9] Volunteers play a key role in community businesses and are staff in every sense except for pay. To leave volunteers out of the picture when discussing 'employee' influence, therefore leaves out more than three quarters of the community business workforce.

3a) Do you agree to replace must 'deliver public services', with must have 'a clear social mission outlined in their governing documents'?

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[7] *Consultation on the future definition of public sector mutual*, DCMS, July 2019, pp. 10-11
[8] See *The Future of Business: State of Social Enterprise Survey 2017*, SEUK, p. 33.
[9] *The Community Business Market in 2018*, Power To Change, December 2018, pp 4, 21.

YES

3b) Please provide further information to support your response

‘Deliver public services’ is too vague a phrase to be meaningful as the definition of a public service changes over time; also it does not exclude bodies who would deliver such services for profit alone. We support replacing the requirement to deliver public services with one to have ‘a clear social mission’, with the caveat that this must be sufficiently well-defined to prevent companies presenting themselves as a mutual by way of a stated ‘social mission’ that does not tally with the reality of the operation. We would be happy to share a copy of our grant-making guidelines where we set out how we assess ‘social mission’, such as this being outlined in an organisation’s governing documents.
We also support Cooperatives UK’s position that mutuality, member benefit and social purpose often combine, and that the creation of decent, empowering work and an equitable share of wealth for members should be recognised as a social benefit in itself.

3c) Do you agree that government should make it a requirement that mutuals are social enterprises, and therefore reinvest the majority (51%+) of their profit into their mission?

YES

3d) Please provide further information to support your response.

We welcome the requirement that mutuals be social enterprises and reinvest at least 51% of their profit into their mission. Although our definition of a community business does not explicitly state that its profits (if any) must be reinvested, this is implicit in our two requirements that a community business must trade for the benefit of the local community and be accountable to the local community. We do not, therefore, see any problems with community businesses complying with this requirement and are keen that other forms of social enterprise are held to it. To make sure they do, the requirement must be properly enforced: we would like to know how the government plans to monitor the reinvestment of profit and if it plans to use the sanction of removing mutual status from organisations who prove not to do so.

3e) Do the proposals outlined in section 3 limit the potential for investment in the

mutuals sector?

YES

3f) Please provide further information to support your response.

Power to Change knows from its own experience, as well as commissioned research and numerous sector reports, repayable finance remains challenging for community businesses and organisation in the wider social economy, including mutuals. Power to Change considers social investment as one tool in the toolbox alongside other forms of support. In some but, but certainly not all cases, it can be as or even more effective than a grant, and that it can attract other complementary investment or support. We are focussed on community businesses seeing the right sort of money, on the right terms and at the right time.

As the response from Cooperatives UK, with which we fully agree on this point, has made clear, it is entirely possible to attract mission-aligned investment without having to offer investors the biggest share of any profits generated. Mutuals are increasingly proving that, with the right tools and knowhow, it is possible to raise equity investment while only offering a steady long-term return on investment, and without having to give away control or a share in their underlying assets.

That said, in many contexts smaller mutuals can find it more difficult to raise investment. And all mutuals face some distinct challenges in raising investment that non-mutuals, socially purposed or otherwise, do not.

There are a number of current examples that demonstrate that it is possible for mutuals to attract patient, mission-aligned investment. Community benefit societies (a type of mutual society focused on community benefit) raise millions each year through ‘Community Shares’. Through Community Share offers, these mutuals sought £23.2m in 2016, £13.8m in 2017 and £15.5m in 2018.[10]
Community Shares account for all of the equity raised using Social Investment Tax Relief since its inception in 2014 [11] and government made new commitments to support the use of Community Shares in its Civil Society Strategy.[12] Community Shares work because it

[10] http://communityshares.org.uk/open-data-dashboard
[11] https://www.bigsocietycapital.com/get-sitr/social-investment-tax-relief-deals-database
[12] https://www.gov.uk/government/publications/civil-society-strategy-building-a-future-that-works-for-everyone

focuses on raising capital from people with a close stake in the community benefit the enterprise seeks to generate. The model also gives these communities democratic ownership and control of the enterprise, which is a strong motivating factor for investors. The enterprises run on a ‘one member, one vote’ basis, rather than one share, one vote.

Some more innovative co-operative and community benefit societies are increasingly interested in using ‘investor-members’ to raise external equity from mission-aligned investors. For example, new social care platform co-operative Equal Care has successfully raised more than £300k in new venture equity via this route.[13]

Equal Care Co-op has also secured commitments from the Community Shares Booster Programme, which is funded by Power to Change but in which the shares are also help by Co-operatives UK. Under this programme Power to Change invested £100,000 to match applications for shares from the public. This means that for every pound invested by individuals up to £100,000, another pound was invested in shares by the Booster Programme.

4. Independence & Ownership

4a) Do you agree that at least 51% of a public sector mutual must be employee, community or user-owned. This 51% could not be owned by either a public sector organisation, or a private sector organisation that is not an employee, community or user owned entity. Such an entity could be an employee ownership trust, co-operative, social enterprise or charity.

YES

4b) Do you think there any other mechanisms that should be implemented to future-proof the character of a public sector mutual?

YES

4c) Please provide further information to support your response.

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[13] https://www.ethex.org.uk/equalcare

It is key that private sector organisations do not own majority stakes in a mutual, as when employees, community or users – and we would add volunteers – own less than 51% it can result in them having very little meaningful involvement in governance. This has been shown to be the case in public sector mutuals like MyCSP and Circle Health.

Like Cooperatives UK, we see significant potential in the adoption of multi-stakeholder models, with a hybrid of community, user and worker ownership. These businesses could empower and benefit their workers alongside their community. Power to Change has recently begun supporting a number of such businesses, which are often established as co-operatives, including Equal Care Co-op and Kitty's Laundrette in Liverpool. We recommend that government makes the guidance around public service mutual ownership sufficiently open to allow both worker and community benefit to be generated.

In terms of future-proofing, we recommend that as well as the 51% multi-stakeholder ownership requirement, mutuals also seek mission-aligned investors (e.g. community investors, perhaps through a community share offer, or appropriately purposed institutions) for the minority stake and/or restrict voting rights and claims on underlying assets for any private sector partner. Another mechanism to future proof public sector mutuals should be a central commitment to community accountability. In our experience of working with community businesses, this, along with community ownership is the bedrock on which the character of community business is founded.

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