Public Service Mutuals: a flash in the pan?

Andrew Laird

On the morning of "Mutuals Tuesday" at POPse I got together with a group of social enterprise experts to cast our thoughts five years into the future and think about the potential state of the public service mutuals market (both dream and nightmare scenarios). Participating in the discussion we had think-tankers, commissioners, advisors, practitioners and lawyers - so we had most bases covered! The following contains snippets of our discussion plus some additional thoughts of my own including what I think needs to happen to promote a sustainable market and how that market might develop.

There is certainly a lot of national political good will directed towards the mutuals agenda. Locally, there are different views in different local authorities and communities but the key point is that this is not a party political issue. Some of the first trailblazer schemes promoting mutual/social enterprise delivery of public services, such as the NHS Right to Request scheme and the Social Work Practice programme, were set up under the Labour government. In fact, the principles that underpin co-operatives and mutuals are very close to the heart of the Labour movement. Unfortunately this cross party support will not be enough and there are significant challenges to overcome if there is to be a sustainable public service mutuals market.

There is a very real risk that the drive to encourage staff to take up this opportunity will be undermined by being associated with the cuts. Much effort will need to be expended at a local level to inform people so they can decide for themselves (from a position of enlightenment) whether or not this is part of an ideological reduction of the state. I certainly don't believe it is but some people will never be able to look at this opportunity on its own merits and we have to accept that. For many, especially those whose non-statutory service faces the axe, the cuts might be the catalyst for looking at mutualisation - but it should not be the driving force behind it.

Accessing seed funding is difficult. There is a period while a group of staff are still publicly employed when they need to work on their business plan – but the production of a decent business plan requires support which costs a little bit of money. Most Social Finance providers will only invest when there is something to invest in and aren't usually interested in providing their support at this early stage. Government funded grants have tended to fill this gap but at this precise moment the Social Enterprise Investment Fund, which supports health and social care social enterprises, has not yet reopened and the funds set aside by the Cabinet Office to support mutuals has not yet been released. In the future, the Big Society Bank should provide some financing but it is unclear how it will operate or if it will be any different to traditional social finance loans.

The two big legal issues are the current lack of a robust *Right to Challenge/Provide* and EU procurement rules. Until there is a robust *Right to Challenge/Provide* then the growth of the mutuals market will continue to be dictated from the top-down. With such a r*ight* in place, one would hope that after a short period of top down encouragement (pump priming) that the norm will be for staff groups to drive the process from the bottom up. The complexity of procurement rules are putting off public bodies who want to offer their staff the chance to spin out. Legal reality needs to reflect the policy and procurement barriers should be lifted where possible (I know this is a complex issue and I'm not a lawyer so I will leave it there!).

At present, there isn't a level playing field for smaller mutuals - especially new ones. They are expected to compete against larger organisations within a procurement process that tends to be dominated by financial criteria. Future delivery of social value must be established as a key aspect of all public procurements. Chris White MP's Private Members Bill (*Public Services (Social Enterprise and Social Value) Bill*) takes some big steps towards this. It would require Local Authorities to give greater consideration to economic, social or environmental wellbeing during procurement process. This Bill is currently being considered by parliament.

There is also an important question around the scope of services. If we have an emergence of a significant number of public sector mutuals who "own" entire service cycles this should lead to a much greater focus on early intervention, which leads to both better outcomes for service users and reduced costs. In an ideal world the benefits of the successful mutualisation agenda would spread to other areas of public sector delivery through the sharing of best practice with fellow public service professionals.

The pensions issue has always received a lot of attention when a group of staff are thinking of leaving the public sector due to the real or perceived gap between public service pensions and private pensions. However, whilst there is still concern over this issue it should become a less significant issue over time as public sector pension reforms kick in.

So, having briefly lurched from issue to issue - what can we say needs to happen to kick start the mutuals market?

From the various discussions that we've all been having over the last week I think there are six key things that need to happen to give the fledgling public service mutuals market the best chance of thriving and becoming self sustaining. These are:

1. A robust *Right to Challenge/Provide* is needed, which is as universal as possible across public services. With the exception of the now closed NHS *Right to Request* programme, most of the current mutualisation innovators have been responding to a top down initiative from their commissioning authority or central Government. If the market is to become truly self sustaining it needs to be driven from the bottom-up with front line staff groups driving the process.
2. Easier access to seed funding for groups of staff who are thinking about mutualising is a must. As I have already discussed groups usually won't be able to access traditional social finance loans or equity investment when developing their business plan so are going to be reliant on grants or support from their current public sector employer. In the longer term, some bright spark needs to come up with a new and innovative financial vehicle for this initial start up phase. If someone already has then don't keep it a secret!
3. Clearer guidance on procurement rules. EU procurement law has confused and put off many authorities who have wanted to give their staff the chance to mutualise. Every public

authority and every law firm has a slightly (sometimes more than slightly) different take on what is allowable and what isn't in terms of awarding internal staff a contract. It all comes down to their attitude towards the risk of being challenged by an external provider who feels aggrieved. The current lack of clarity is not fair on either the internal staff who are denied the opportunity or on the external providers, who are often charities and social enterprises themselves.

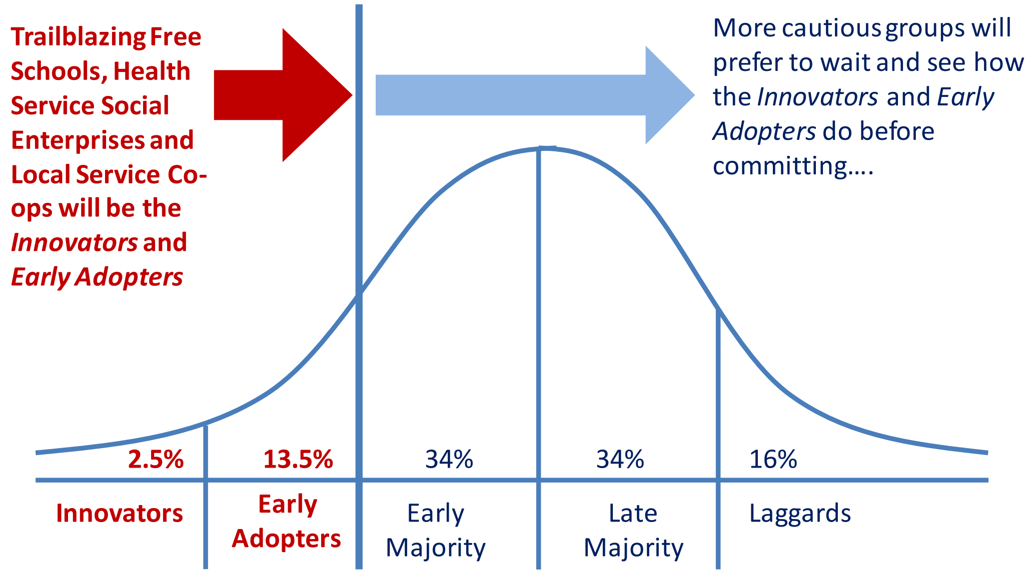
4. To allow mutuals to demonstrate their real value as service providers, and therefore increase their chances of re-winning their initial contract, there needs to a robust and accepted methodology for measuring social value. This shouldn't just be a nice to have. As I mentioned earlier, Chris White's Social Value Bill is a very important step in the right direction – hopefully it will make it to the statute book without too much dilution!
5. There needs to be step change in public service culture and leadership. Too often the inclination to avoid any risk leads to chronic inaction. Unfortunately, even the managers and staff who are enthusiastic about the mutualisation opportunity are sometimes not immune to this affliction. In addition to this, the mutualisation opportunity is often viewed as an additional burden which can easily be avoided rather than a long term solution to other burdens.
6. Finally and critically, there needs to be a clear message to front line staff, service managers and local politicians that this is not back door privatisation or a "Trojan Horse" for big private sector providers - mutuals maintain the public service ethos, most are non-profit making and there are safeguards available such as asset locks to prevent abuse.

If we don't start to address these now then a sustainable public service mutuals market may never emerge. The damage this would do to the reputation of the social enterprise sector would be very difficult to repair.

But to look on the bright side - if all this happens, how might the market develop?

It will be a slowly emerging market. Without getting too technical, it might work like this... Everett Roger's Diffusion of Innovations model[1] (shown below) demonstrates that only a very small proportion (2.5%) usually want to be (or are capable of being) the initial *Innovators*. We are seeing some of these staff groups now. However, once the I*nnovators* are up and running and start to prove the concept the *Early Adopters* will (should!) be fast on their heels. Not long afterwards there will be enough working mutuals and enough knowledge gathered around the implementation challenges for the *Early Majority* and then the *Late Majority* to follow and so on. This is typically how innovation spreads.

[1] Rogers, E. (1962) Diffusion of innovations. Free Press, London, NY, USA



This is why I am not surprised (although a little disappointed) that everyone has not immediately jumped forward and demanded the opportunity to mutualise. Whilst there will be Trailblazers who will jump at the chance, others will be more cautious and will want to see how things develop before taking action themselves. This is absolutely what you would expect and having that balance between innovation and caution is critical to the successful diffusion of innovation. This balance allows early mistakes and misjudgements to be contained and the lessons learned by both the Trailblazers themselves and others. However, with risk there is also reward and the Trailblazers stand to gain *first mover advantage* if they manage their risks carefully. This will be good for the long term health of the public service mutuals market because: the model will ultimately be more implementable because it will have been tried, tested and adjusted on the front line – this is not a given when things are driven from the top down; and the quality will be driven by the best-in-class rather than being set arbitrarily from the centre through targets - this removes any perverse incentive to hold back on innovation and progress because a target has been met.

If the market develops in this considered and sustainable manner then it will be worth waiting for.

So there we have it. We are at a critical juncture for the fledgling public service mutuals market. In my view what happens over the next 18 months will determine whether mutuals will change the way our public services are delivered forever or will be nothing more than a flash in the pan. It's all to play for!

Andrew Laird is a Director of Mutual Ventures

Mutual Ventures is a social enterprise focused on supporting the development of public service mutuals and (in collaboration with Co-operatives UK) has produced a guide on setting up a public service mutual.