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## 2. Establishment

This Information Sheet presents a Governance Framework and includes the key items that your group will need to discuss about the governance arrangements you could develop to manage shared living and/or supports.

It also outlines the types of informal groups or legal entities that could be considered. Your group will need to decide what governance arrangement will best suit your needs and preferences.

This Information Sheet contains the following sections:

- 2.1 Governance Framework
- 2.2 Living Arrangements
- 2.3 Tenancy Arrangements
- 2.4 Governance
  - 2.4.1 Participation in governance
  - 2.4.2 Host arrangements with a service provider
  - 2.4.3 Incorporated Associations
  - 2.4.4 Cooperatives
  - 2.4.5 Microboards™
  - 2.4.6 Companies
  - 2.4.7 Administering a group or legal entity
  - 2.4.8 Governance arrangements – examples
- 2.5 Notes
- 2.6 References

## 2.1 Governance Framework

This section presents a governance framework for shared living and support arrangements in NSW where individuals and/or families decide to govern these arrangements.

### What is a Governance Framework?

The Governance Framework identifies the key elements that your group needs to consider to set up this new shared living and/or support arrangement. A Governance Framework provides you with a list of the options available to help you work out how the arrangements will operate. Some arrangements can remain informal but other options may require more formal legal structures.

The attached Governance Framework is grouped into three Key Areas with a series of sub-areas. The three Key Areas that you will need to consider are:

1. Establishment –how you will set up the arrangement, including the type of housing, tenancy and entity arrangements;
2. Operations –all the operational aspects of your arrangement: decision making, overall management, coordination, funds management and support coordination and provision; and
3. Shared living and/or support – how you will manage household costs, where more than one person share a home, and every day activities (including pooling of funds for shared supports).

### How to use the Governance Framework






For each of the Key Areas in the Governance Framework, the boxes list the various options available to you in this arrangement. The living option you select to some extent determines the governance arrangements available to you.

The steps are as follows:

1. Firstly, identify the type of living arrangement you are setting up from the left hand column.
2. Track this row across the page.
3. To make it easy to follow, each row has a different colour. For example, if you are choosing to live with three others, then only read the purple boxes across the page.
4. To assist you to easily navigate the Resource Kit, each section is colour coded based on these three Key Areas and contains information about the options available to you for each of these Key Areas.

*Please note – if you wish to print of the Governance Framework you will need to print it on A3 paper.*

# Governance Framework

Governance Framework										
Establishment			Operations					Shared Living		
	Living arrangement	Tenancy arrangement	Entity/ agreement	Support provision	Support coordination	Overall management/co-ordination	Package management	Decision making. Disputes, risk management etc	Household costs	Daily life and participation
INFORMAL	 Live alone/with family	Private Rental Social Housing Home Ownership	Not required or Microboard™*	Disability service provider Directly employed workers Informal support network Community Mainstream services	Individual/family/nominee Disability service provider	Individual or their family/ nominee Disability service provider	Individual/family/nominee Plan Manager Disability service provider	Not required	Individual/family/nominee	Individual/family/nominee Disability service provider Directly employed workers Informal support network Community
	 Live with 2 or 3 people with a disability	Private Rental Social Housing Home Ownership	Contract, agreement or Microboard™*	Disability service provider Directly employed workers Informal support network Community	Individual/family/nominee Disability service provider	Individual or their family/ nominee Disability service provider	Individual/ family/nominee Host Agency Plan Manager Disability service provider	Individuals and/or their family/nominee, circle of support	Individual/family/nominee	Individual/family/nominee Disability service provider Directly employed workers Informal support network Community
FORMAL CONTRACTUAL	 Live with a person without a disability who provides some support	Private Rental Social Housing Home Ownership Co-tenant provides support in lieu of part or full rental	Contract/agreement	Disability service provider Directly employed workers Informal support network Community Co-tenant	Individual/family/nominee Disability service provider	Individual or their family/ nominee Disability service provider Co-tenant	Individual/family/nominee Host Agency Plan Manager Disability service provider	Individuals and/or their family/nominee, circle of support	Individual/ family/nominee Co-tenant	Individual/family/nominee Disability service provider Directly employed workers Informal support network Community Co-tenant
FORMAL, LEGAL, CONTRACTUAL	 Live with 3 or more people with a disability in a shared home	Private Rental Social Housing Home Ownership	Disability service provider Microboard™* Incorporated Association Co-operative Informal arrangement	Disability service provider Directly employed workers Informal support network Community	Individual/ family/nominee Disability service provider Entity	Individuals/family/ nominees Disability service provider Coordinator/manager Entity	Individual/ family/nominee Host Agency Plan Manager Disability service provider Entity	Individuals/ family/ nominee Circle of support Entity	Individuals/family/nominee Entity	Individual/family/nominee Disability service provider Directly employed workers Community Informal support network
	 Live nearby 3 or more people with a disability in the same locale or an intentional community	Private Rental Social Housing Home Ownership	Disability service provider Microboard™* Incorporated Association Co-operative Informal arrangement	Disability service provider Directly employed workers Informal support network Community	Individual/ family/nominee Disability service provider Entity	Individuals/family/ nominees Disability service provider Coordinator/manager Entity	Individual/ family/nominee Financial intermediary Host Plan manager Disability service provider Entity	Individuals/family/ nominee, Circle of support Entity	Individuals/family/nominee Entity	Individual/ family/nominee Disability service provider Directly employed workers Community Informal support network

Legend: \* For each individual

## 2.2 Living Arrangements

This section describes some of the living arrangements where two or more people with disability may choose to live with or nearby others and to share some of their support and funding.

### What are Living Arrangements?

A living arrangement is both the people you live with and the place where you live. Your living arrangement is different from your tenancy arrangement (Section 2.3).

There are many different living arrangements.

### What is involved?

Different living arrangements will suit different individuals.

- Some individuals will prefer to live alone
- Others prefer living with another person or with a group of people
- Some people want to live with other individuals with disability
- Others prefer to live with an individual (or a family) without disability but in some cases the housemate may provide some support.

### What are the options?

There are many options for living arrangements. Some of these are shown in the table below.

Table 1: Some living options

House hold size	Support options	Examples (not exhaustive list)
1	<ul style="list-style-type: none"> <li>• Funded support</li> <li>• Informal support (family and friends)</li> </ul>	<ul style="list-style-type: none"> <li>• Living alone or with family</li> </ul>
2-3	<ul style="list-style-type: none"> <li>• Funded support</li> <li>• Support from a member of the household</li> <li>• Informal support (family and friends)</li> </ul>	<ul style="list-style-type: none"> <li>• 1 person with disability owns a home and has 1-2 people with disability as flatmates</li> <li>• 2-3 people with disability live together (ownership or rental)</li> <li>• A person with disability owns or rents their home and a person without disability lives with them and provides some support (sometimes, referred to as co-tenancy, lead tenancy model)</li> </ul>
4-6 or more	<ul style="list-style-type: none"> <li>• Funded support</li> <li>• Informal support (family and friends)</li> </ul>	<ul style="list-style-type: none"> <li>• Living with 3 or more people in a house (for example, group home)</li> <li>• Living with 3 or more people in shared units or villas</li> </ul>

House hold size	Support options	Examples (not exhaustive list)
Other	<ul style="list-style-type: none"> <li>Funded support</li> <li>Informal support (family and friends)</li> <li>Neighbours</li> </ul>	<ul style="list-style-type: none"> <li>Living on your own or with others without disability but close to others with disability (to enable sharing of support).</li> </ul> <p>This may include an intentional community. An intentional community in this context is an arrangement based on a series of units (such as in a high rise apartment building or in a large block of land where a number of people live, some of whom will have disabilities). Most often in intentional communities, there is an expectation that neighbours will provide some informal support and social relationships to residents with disabilities.</p> <p>(see 2.4.7 for two examples).</p>

### What should I consider when making decisions?

Different living arrangements suit different people. Some things to consider when thinking about your preferred living arrangement are:

- Where do you want to live?
- Who do you want to live with?
- The kind of housing do you like?
- How much can you afford to pay in rent, utilities, etc.?
- Do you feel more comfortable with informal or formal support arrangements?
- How much support do you need and when?
- The amount of your individualised funding.
- The proximity to family, friends, public transport, shops, etc.
- How much time do you want to spend alone and how much with other people?
- Do you enjoy sharing living spaces such as a kitchen, lounge room or bathroom?

Sometimes it is hard to know whether a living arrangement will suit you until you try it. Sometimes you can get an agreement to try a new living arrangement for a short time, before you agree to do it for a longer term such as a year or more. If you *'try before you buy'* you can be more confident about whether a new arrangement will suit you.

### Tips and links

There are a number of tools and guides that can assist you to decide what living arrangement will best suit you. These include (but are not limited to):

- My life, your life and our life: A guide for flat-mates, home-sharers and co-residents. This is developed by Western Australian Individualised Services [www.waindividualisedservices.org.au/assets/Uploads/page\\_assets/WAIS0002My-Life-Your-Life-Our-LifeHR.pdf](http://www.waindividualisedservices.org.au/assets/Uploads/page_assets/WAIS0002My-Life-Your-Life-Our-LifeHR.pdf)
- The housing toolkit developed by the Summer Foundation [www.summerfoundation.org.au/projects/housing-toolkit/](http://www.summerfoundation.org.au/projects/housing-toolkit/)
- A guide to developing personalised residential arrangements [www.healthsciences.curtin.edu.au/local/docs/PRS\\_Guide\\_to\\_decision\\_making.pdf](http://www.healthsciences.curtin.edu.au/local/docs/PRS_Guide_to_decision_making.pdf)
- A place to call home: [www.pavetheway.org.au/sites/pavetheway.org.au/files/documents/A%20Place%20to%20Call%20Home%20-%202013.pdf](http://www.pavetheway.org.au/sites/pavetheway.org.au/files/documents/A%20Place%20to%20Call%20Home%20-%202013.pdf)
- A home that is right for me: Valuing choice, evolving residential options: [www.ont-autism.uoguelph.ca/Final-IRMI-App-2009.pdf](http://www.ont-autism.uoguelph.ca/Final-IRMI-App-2009.pdf)

There are also some Australian websites that have useful information on self-directed supports. These include among others:

- WAIS [www.waindividualisedservices.org.au/](http://www.waindividualisedservices.org.au/)
- Pearls of Wisdom: [www.pearl.staffingoptions.com.au/](http://www.pearl.staffingoptions.com.au/)
- Helen Sanderson and Associates: [www.helensandersonassociates.co.uk/](http://www.helensandersonassociates.co.uk/)

## 2.3 Tenancy Agreements

This Section explains where to find information about the various housing and tenancy arrangements in NSW. If you own the property then this Section may not be relevant.

### What are tenancy agreements?

If you decide to live in a property that is owned by another party, a tenancy agreement is the term used to describe the arrangement you will form with the landowner. This arrangement is described through a tenancy agreement.

### What is involved?

It is recommended that you ask your landowner to explain the details of your tenancy and to outline your responsibilities and obligations. These will form the basis of your tenancy agreement.

Housing costs such as rent and utilities will be your responsibility and cannot be paid for from your Package. You should consult the relevant funding guidelines and conditions for what your funding will cover.

More information about housing and landlords' and tenants' obligations is available at the Fair Trading NSW website ([www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)) and at Housing NSW ([www.housing.nsw.gov.au/](http://www.housing.nsw.gov.au/)).

### Tips and links

- Website - [www.housing.nsw.gov.au/Community+Housing+Division/About+Us/](http://www.housing.nsw.gov.au/Community+Housing+Division/About+Us/) In New South Wales, community housing is provided by the not-for-profit sector and administered by the Community and Private Market Housing Directorate (CAPMH). Community housing is part of the broader social housing system, offering those most in need access to affordable and appropriate housing.
- Website - The Tenants NSW website has a range of fact sheets about tenancy issues and shared housing. These are available in the Publications section of the following website: [www.tenants.org.au/](http://www.tenants.org.au/)
- Resource – Tenants NSW lists the contact details for tenants advisory and advocacy services across NSW on their website. [www.tenants.org.au/](http://www.tenants.org.au/)
- Website – The Fair Trading NSW website has some tenancy templates and information about renting and managing residential tenancy disputes [www.fairtrading.nsw.gov.au/ftw/Tenants\\_and\\_home\\_owners/Renting\\_a\\_home.page](http://www.fairtrading.nsw.gov.au/ftw/Tenants_and_home_owners/Renting_a_home.page)
- Resource – WA Individualised Services has produced an information guide: My life, your life and our life: A guide for flat-mates, home-sharers and co-residents. It is available to



download from:

[www.waindividualisedservices.org.au/assets/Uploads/page\\_assets/WAIS0002My-Life-Your-Life-Our-LifeHR.pdf](http://www.waindividualisedservices.org.au/assets/Uploads/page_assets/WAIS0002My-Life-Your-Life-Our-LifeHR.pdf)

- Affordable Housing NSW:  
[www.housing.nsw.gov.au/Centre+For+Affordable+Housing/About+Affordable+Housing/](http://www.housing.nsw.gov.au/Centre+For+Affordable+Housing/About+Affordable+Housing/)

## 2.4 Governance

This Section describes what is meant by governance - it contains Sections 2.4.1 to 2.4.7.

### What is Governance?

Governance refers to:

*'all processes of governing, whether undertaken by a government, market or network, whether over a family, tribe, formal or informal organisation or territory and whether through laws, norms, power or language.'*<sup>1</sup>

### When would I need to think about Governance arrangements?

Good governance should support your group to:

- Achieve your aims
- Establish and maintain the shared living and/or support arrangements
- Form the foundation of your group's decision making structures and processes.

If you wish to have more autonomy in decision making or if there are no suitable organisations or services available that meet your specific needs, then you may consider developing your own governance group.

Creating your own governance group allows you to develop your own unique arrangements that will best meet your needs and allow you to design your own supports.

Family governed groups often have unique arrangements that are designed to best meet the needs of the persons or communities involved because they are able to design their own supports. This Information Sheet is designed to help you decided why you would enter a governance arrangement and explains the different types and the principles connected to them.

The following Sections explain the different options available to your group and some of the key elements connected to them.

### What is involved?

Governance activities can include:

- Family meetings;
- House meetings in a shared house;
- A committee meeting for a sports or social club;
- A general meeting for all members of a club or association;
- A board meeting for a company; and
- Developing rules, policies and procedures.

Depending on the type of governance group your form, good governance can also assist your group to comply with any relevant laws and regulations.

### What are the options?

The governance activities that a group must do will vary according to the type of arrangement that is being governed.

- Formal organisations (for example, incorporated associations such as sports and social clubs) must follow certain governance procedures including holding annual general meetings and following specific procedures when voting on decisions.
- Informal organisations such as a group of housemates can determine their own governance procedures.

### What are the key success factors of similar governance arrangements?

A range of success factors have assisted people and families to govern similar shared living and/or support arrangements. These broadly relate to:

- Agreeing on and maintaining the vision, aim and key principles;<sup>2, 3</sup>
- Developing clear roles and responsibilities;
- Developing action plans and sharing the workload;
- Perseverance, commitment and energy;<sup>2-4</sup>
- Relationships;<sup>2-4</sup>
- Effective problem-solving and dispute resolution processes;<sup>2-4</sup>
- Being prepared to take risks and try something new;<sup>2-4</sup>
- Having sufficient funding;<sup>5</sup>
- Focusing on building individual lives which include informal supports;<sup>2, 3</sup> and
- Succession planning.<sup>4</sup>

### What should I consider when making a decision?

Having an agreed way of governing can help everyone know what to expect from your group. Agreeing on how to manage issues before they arise may make it easier to reach agreement and to make decisions.

Governance activities take time. For most family groups, co-operatives or incorporated associations these activities are done on a voluntary basis.

You need to consider the amount of control you wish to have over the arrangement and the level of risk you are prepared to take. The documents provided will assist your decision making.

## Tips and links

See the Sections 2.4.1 through to 2.4.8.

- The template section of this Resource Kit includes a copy of a group exercise for you to print off and use.
- The *Our Community* website provides advice, tools, resources and training for not-for-profit associations in Australia. It also includes templates for policies and procedures related to governance.  
[www.ourcommunity.com.au/](http://www.ourcommunity.com.au/)  
[www.communitydirectors.com.au/icda/policybank/](http://www.communitydirectors.com.au/icda/policybank/)
- The *NSW Office of Fair Trading* website has information on incorporated associations and co-operatives including governance.  
[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)
- Think Tank Collective on Family Governance; A Summary report also contains some useful information  
[www.communitylivingbc.ca/policies\\_and\\_publications/documents/ThinkTankonCollectiveFamilyGovernance.pdf](http://www.communitylivingbc.ca/policies_and_publications/documents/ThinkTankonCollectiveFamilyGovernance.pdf)
- Dr. Michael Kendrick is well known internationally as an educator, advocate, consultant and author. He has worked in government and non-government agencies and consults on issues such as service quality, safeguards, and design of personalised services. He lives in the United States, but as a regular visitor to Australia, he also understands the local and national issues that people with disability and their supporters face as they strive to live in their community. Michael's website [www.kendrickconsulting.org](http://www.kendrickconsulting.org) contains further information and resources.
- Web link to Summary of Self Directed Option Dr. Michael Kendrick:  
[www.ideaswa.net/upload/editor/files/kendrick\\_self\\_dir\\_ct.pdf](http://www.ideaswa.net/upload/editor/files/kendrick_self_dir_ct.pdf)

## 2.4.1 Participation in Governance

This Section describes how to support your involvement in governance.

### What is meant by participating in governance?

In all groups and organisations there is a range of skills, abilities, interests and personal preferences that vary from one individual to the next. Using the skills and abilities of your group will assist you to spread the workload.

### What is involved?

Governance activities assist you to:

- Make decisions in relation to day to day operations;
- Make decisions in relation to issues or problems that may arise;
- Administer the decisions made by the governance group; and
- Account for administration activities, including reporting administration activities to the general membership and arranging for auditing of financial records when required.

Some examples of these activities are described in the table below.

Table 2: Examples of governance activities

Issue	Decision	Administration	Accounting
<b>Meals</b>	What food (if any), consumable items (cleaning products, etc.) will be purchased by the group?	Discuss details about the meals - will they be shared or not? If shared discuss how you will purchase these items and prepare the meals.	Add payment of food bills to the monthly financial records as an expenditure item.  Consider keeping records of weekly menus (if shared).
<b>Events</b>	How will we mark events like Easter, Christmas, birthdays, etc.? Who will undertake to organise any events and the tasks required?	Provide details to the person/s responsible for each task.	Add payment of bills to the monthly financial records as an expenditure item.  Review success at group or general meeting. Decide if you will do things the same next time?
<b>TV</b>	What type of pay TV service (if any) do we want? (This is a personal expense from each individual's income).	Find the pay TV package that fits the desired option and budget agreed by the group. Arrange the contract and installation.	Add payment of Pay TV bills to the monthly financial records as an expenditure item. File documentation with other records held by the governance group.

While some administration and accounting activities may not be undertaken by every group member, all members are able to participate in the decision making components of governance. However, each person may have different expectations about the level of involvement they wish. Some people may want to participate fully while others may want a more hands-off role, but would like to be consulted on major decisions. It is therefore important that you make sure what people’s preferences are.

Table 3 summarises the key elements of the various options available to you to govern this arrangement and the following Sections describe each of these options in more detail.

Resource Activity 1 is a group exercise tool to assist your group to decide the level of control that you wish to have in this governance arrangement.

### What should I consider when making decisions?

Participation can occur at many levels. The more involved people are in the decision making process, the more likely they are to be satisfied with the outcomes of those decisions. Although some individuals may be satisfied to let others make the decisions. Decision making and participation can occur across a spectrum (see figure below).

Figure 1: Decision making and participation

Increasing level of participation					
*	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
Goal	To provide balanced and objective information to help with understanding issues, alternatives and solutions.	To obtain feedback on issues, alternatives and decisions.	To work with a group to ensure their issues and concerns are understood and considered	To partner with members of a group in each aspect of decision making including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands of the individuals with disability and/or their family.
Process	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns, and provide feedback on how your input influenced the decision.	We will work with you to ensure your issues and concerns are directly reflected in the alternatives developed and provide feedback on how your input influenced the decision.	We will look to you for direct advice and innovation in developing solutions and incorporate your advice and recommendations in the decisions as much as possible.	We will implement what you decide.

*	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
<b>Examples</b>	<ul style="list-style-type: none"> <li>• Fact sheets</li> <li>• Information books</li> <li>• Websites</li> </ul>	<ul style="list-style-type: none"> <li>• Surveys</li> <li>• Focus groups</li> <li>• Consultation meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Workshops</li> <li>• Polling or a 'show of hands' to express preferences</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory committees</li> <li>• Forums to build consensus</li> <li>• Participation in decision making</li> </ul>	<ul style="list-style-type: none"> <li>• Voting on issues</li> <li>• Decision making</li> </ul>

\* Adapted from the iap2 Public Participation Spectrum, International Association for public participation

## Meetings

Your group will need to decide what meetings will be held and how frequently they occur. There may be different meetings. For example:

- Individuals who reside in the same house or in nearby homes may decide to hold monthly meetings to discuss how the arrangement is working out and to bring up any issues, etc.
- The family governance group may decide to meet regularly (for example, quarterly).
- There may also be meetings between the governance group, individuals and the intermediary or service provider/s.
- If sub-groups are formed (for example, social committee) these sub-groups may hold separate meetings.

You will need to discuss and agree on what level of attendance is required and the types of decisions that may need being put to a vote. You will need to pre-determine how any voting will occur (is it one person per vote, one family per vote, etc.) and the minimum number of votes required for decision making. Some groups and legal entities may use different types of membership that is accompanied by different voting rights, etc. For example some may be full members or associate members.

## Supported and substitute decision making

Some individuals may need support to make a decision or express a preference about specific issues or questions. When needed, the group should ensure that individuals can access the types of supports they need to understand the issues involved and to express their views. This may include the use of communication aids or receiving information in a different format. It can also include a person to help them to understand and express their views - this is sometimes referred to as supported decision making. At times some individuals may use substitute decision making. This is when a person who knows the individual well (for example, a family member or guardian) participates in the decision making from the viewpoint of what is in the best interests of the individual.

## Tips and links

- Table 3 and Resource Activity 1 of this Section

- Website - iap2 Public Participation Spectrum  
[www.iap2.org.au/documents/item/84](http://www.iap2.org.au/documents/item/84)

The following Sections (2.4.2 to 2.4.6) inform you of the options available to your governance group.

The attached material has been developed based on national and international research of what governance bodies of shared living arrangements do in other jurisdictions.

They are presented purely as a guide. Some of this material may apply and be useful to your group, whereas other information may not appear to have any relevance at all. Your group will need to decide the best governance arrangement to meet the needs of the individuals living in the arrangement as well as the capacities of the governance group. If you are considering setting up a legal entity you will want to get legal advice on the best structure for your needs and your obligations.



## A range of governance entities or groups you might consider and their key elements

Please note: More detail on each of these options is provided in the following Sections.

Table 3: Examples of types of entities you might consider

Corporate entity	Co-Operative	Incorporated Association	Microboard™	(Proprietary Limited) Company	Informal Group
Key elements					
Purpose	Providing mutual benefit to members.	Providing benefits or services to individual members and to the broader community.	Providing support to an individual in regard to : <ul style="list-style-type: none"> <li>- Planning</li> <li>- Advocacy</li> <li>- Managing supports</li> <li>- Community connections</li> </ul>	Establishing a business structure under the <i>Corporations Act 2001</i> for one or more people who wish to have a business that is a separate legal entity to themselves.	Defined by the group.
Suitable for groups	✓	✓	✗	✓	✓
Restriction on group size	✓ (must be at least 5 members)	✓ (must be at least 5 members)	✓ (each Microboard™ is for one person)	✗	✗
Can have members who are not part of the living arrangement				✓	
Corporate entity status	✓	✓		✓	✗

Corporate entity	Co-Operative	Incorporated Association	Microboard™	(Proprietary Limited) Company	Informal Group
Key elements					
Able to enter into and enforce contracts	✓	✓		✓	! <sup>1</sup>
Able to sue or be sued	✓	✓		✓	! <sup>2</sup>
Operate under specific laws and regulations	✓	✓		✓	X
Have mandated governance structures and procedures	✓	✓		✓	X
Have mandated compliance requirements	✓	✓		✓	X
Have mandated dispute resolution processes	✓	✓		✓	X
May continue regardless of changes to membership or ownership	✓	✓		✓ <sup>3</sup>	X

<sup>1</sup> Although individuals within the group may (either separately or together) enter into and enforce contracts

<sup>2</sup> Although individuals in an informal group may sue or be sued

<sup>3</sup> A Proprietary Limited Company does not have members. It has directors and may have employees and shareholders.

## Group Exercise to Determine Your Preferred Level of Control over the Arrangement

### Resource Activity 3: Identifying levels of control

*Instructions:* Each person completes this exercise individually and then discusses the results with the other people in the group.

1. How much control do you personally want?

Rate the overall amount of control you wish to have over the items listed below.

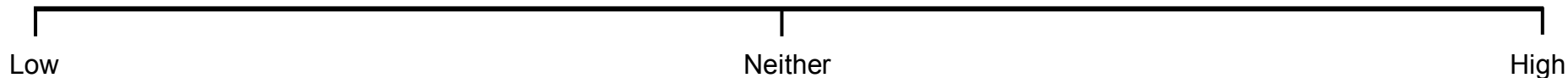
Area of responsibility	How much control do you want?			Comments
	No Control	Some Control	Full Control	
Governance				
Funding				
Services and supports				
Support staff				
Daily life				
Household costs				

Share your ratings with the other members of the group. Discuss how much similarity or difference there is.

Where difference exists, how will this be resolved?

2. Energy, availability and participation

Place a cross on the line to reflect your current energy, availability and participation level.



3. Ideas about how you could assist

What ideas do you have about how you could assist with the running of the shared living arrangement and how regularly might you be able to do this task? (Think about individual or group support, domestic, gardening, governance, coordination, managing the finances, decision making, meetings, events, etc.)

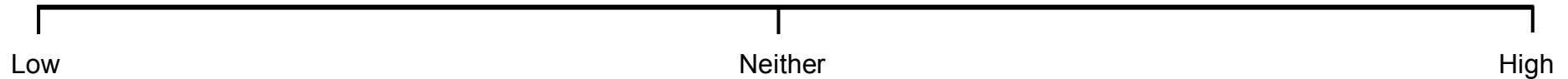
Task	Daily	Fortnightly	Monthly	Quarterly	Yearly

4. To help you to decide if your group will remain an informal governance group or form a legal entity, you need to consider the level of administration and legal protection and accountability involved and the extent to which they are aligned with your own preferences.

a) What level of administration responsibility do you want?

Consider if you are prepared to be involved in record keeping and the day-to-day administration (for example, staff recruitment, training, rostering, paying bills, minute taking, etc.) of this arrangement or want another party to complete these tasks.

Place a cross on the line to reflect your preferred level of administration responsibility.

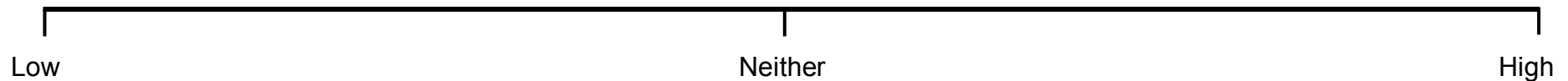


b) What level of legal protection do you want?

When thinking about the type of governance arrangement you want to establish, you will need to consider the level of legal protection you wish to have. For example, if you decide to use a service provider to fully manage the shared living and support arrangement, then they would need to meet the relevant legal and regulatory obligations. However, if your group wants to manage the arrangement, you may wish to consider forming a legal entity that will provide some protection to you.

[As noted above, it is a good idea to get some legal advice about the kind of structure that suits you.](#)

Place a cross where to reflect your preferred level of legal protection.



c) What level of legal accountability do you want?

Depending on the type of governance arrangement you develop, you may have some legal accountabilities (for example, record keeping and financial audits).

What level of legal accountability do you want?



## 2.4.2 Host Arrangements

This Section outlines the Host Arrangement governance option.

### What is a host arrangement?

In this option your group would create an informal governance committee made up of the individuals and/or families of the individuals wishing to live together or in close proximity. This governance committee would then form a partnership with one or more intermediary funds manager and possibly service providers.

### What is involved?

The intermediary/service provider/s (as an incorporated association, company, etc.) act as a host agency by taking on the responsibility for managing the legal, employment, administrative and day-to day functions of the shared living and/or support arrangement. They may or may not manage some or all of the Packages.

The informal governance committee is not a legal entity but can determine the extent to which they wish to be involved in selecting staff, making expenditure decisions, day to day decision making and future planning.

The governance group and the host agency (intermediary/service provider) negotiate a mutually agreed hosting agreement. Typically, the governance board/committee would negotiate the details of the host arrangement with the intermediary/service provider's Board rather than the senior staff of the agency, thereby cementing a direct relationship to the Board. The arrangement comes under the legal authority of the intermediary/service provider but the governance group/committee retains oversight of the arrangement.

### What should I consider when making decisions?

Think about the level of control you wish to have over this arrangement. The benefits of this option for some individuals and families may include (but not be limited to):

- Not having to become a legal entity;
- Having less involvement in the day to day operations but still having your preferred level of oversight;
- Not carrying some of the associated responsibilities, obligations and risks; and
- Knowing the agency is managing the arrangement.

### Tips and links

See Section 2.4.6 for examples of some of these arrangements.

### 2.4.3 Incorporated Associations

Becoming an incorporated association is one of the options available to your group. This Section describes incorporated associations and what is required of them.

#### What is an incorporated association?

An incorporated association is a not-for profit group that has decided to create a formal legal structure. As such, it has its own legal identity separate from its group members. This provides protection to members in legal transactions. Many community groups and disability service providers are incorporated associations.

*'An incorporated association can:*

- *Enter into and enforce contracts, including the ability to hold, acquire and deal with property;*
- *Sue or be sued; and*
- *Continue regardless of changes to membership.'*<sup>6</sup>

#### When would you have an incorporated association?

Your group does not need to incorporate, but it is one of the legal options you could consider. Things to consider include:

- Membership – if you were to incorporate you need at least five members.
- Not-for-profit status – if incorporated you would need to operate as a not-for-profit organisation.
- Legal status – An incorporated association can accept gifts or bequeaths, apply for grants, buy or sell property, invest or borrow money, open a bank account, take out public liability insurance with greater ease and enter into contracts in its own name. In contrast, an informal group cannot do these things and each member could be personally liable if legal or financial issues emerge.
- Groups of individuals with a common goal do not have to become part of an incorporated association to reach that goal. Getting advice from a solicitor or an accountant can help you decide whether or not to form an incorporated association.<sup>7</sup>

#### What is involved?

There are NSW laws and regulations that govern how incorporated associations are established, operate and are terminated. Incorporated associations have a constitution and can set by-laws. These form the rules under which the incorporated association operates.

Incorporated associations are run by a committee of management. The committee of management includes a president, vice president, treasurer and secretary as well as general committee members. Incorporated

associations must conduct general meetings and committee meetings within the rules of the organisation, maintain records of meetings and decisions as well as keep financial records. You should seek legal advice if you are planning to set up an incorporated association.

### What are the options?

- Form an Incorporated Association
- Form a different type of organisation (such as a co-operative)
- Remain as an informal group and enter into a host arrangement.

### What should I consider when making decisions?

Incorporated associations require specific tasks to be done (such as holding annual meetings) and require specific documents to be kept (such as financial records). These tasks take time and are usually done by members on a voluntary basis.

Incorporated associations can be an effective way for people who have a common interest or aim to work together even when they might have different ideas about how best to achieve these aims.

The constitution and rules of an association set out how decisions are made. This includes how many members need to agree on a decision for that decision to be applied to all members.

### Tips and links

- Website - [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)
  - [Fair Trading NSW](#) Provides information about starting, running and closing an incorporated association in NSW.
  - [Fair Trading NSW](#) Webpage detailing 10 things to consider before starting an incorporated association.
  - [Fair Trading NSW](#) Webpage providing information on the different types of business structures in NSW, such as incorporated associations and co-operatives.
- Resource – There is a model constitution for incorporated associations in New South Wales. It is available from the Fair Trading NSW website.

[www.fairtrading.nsw.gov.au/Factsheet\\_print/Cooperatives\\_and\\_associations/About\\_associations.pdf](http://www.fairtrading.nsw.gov.au/Factsheet_print/Cooperatives_and_associations/About_associations.pdf)



## 2.4.4 Co-operatives

A co-operative is one of the entities that your group could form. This Section describes what a cooperative is and what it involves. This should be read in the full context of the Governance Section (2.4).

### What is a Co-operative?

A co-operative is a business that is owned by its members. Co-operatives are different from other forms of incorporation because of their member ownership, democratic structure and the use of funds for mutual, rather than individual, benefit.

Because they are member-owned, co-operatives allow for a more democratic style of making decisions. When some funds are pooled, this can provide better value for money. Many also harness the skills of their members.

Co-operatives supply goods and services to their members or to the general public in areas such as retailing, manufacturing, printing and agriculture. Like incorporated associations, a co-operative must have five or more members.

Many community groups are co-operatives. Housing associations, food co-operatives, and some medical services are examples of co-operatives in NSW. Co-operatives also exist in regard to housing and support arrangements for people with disability.

### What is involved?

There is a law that governs how co-operatives start, how they are run and how they are terminated. Co-operatives have a set of rules, which detail how they operate.

A co-operative can:

- Enter into and enforce contracts, including the ability to hold, acquire and deal with property;
- Sue or be sued; and
- Continue regardless of changes to membership.

Although there are benefits to be gained from incorporating as a co-operative, there are also obligations.

For example, directors have similar responsibilities to those of company directors, the co-operative must maintain proper financial and membership records and registers, and decisions which have a significant impact on the co-operative must be approved by its members.

If your group decides to become a co-operative, you would need to form a Board of directors. The manager, treasurer and secretary of the co-operative all act on the instructions of the Board of directors in managing the day to day running of the co-operative. You would also need to conduct Board and general meetings within the rules of the co-operative,

maintain records of meetings and decisions, as well as keep financial records.

### What are the options?

- Form a co-operative
- Form a different type of entity (such as an Incorporated Association)
- Remain as an informal group and enter into a host arrangement.

### What should you consider when making decisions?

Co-operatives require specific tasks to be done (such as holding annual meetings) and require specific documents to be kept (such as financial records). These tasks take time.

Directors may be paid for the tasks they do in their role. These tasks can also be done on a voluntary basis. Co-operatives can employ a manager to run the co-operative.

The rules of a co-operative set out how decisions are made. This includes how many members need to agree on a decision in order for that decision to apply to all members.

Groups of individuals with a common goal do not have to become part of a co-operative to reach that goal. Getting advice from a solicitor or an accountant can help you decide whether or not to form a co-operative.

### Tips and links

- Website - [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)
  - [Fair Trading NSW](#) Provides information about starting, running and closing a co-operative in NSW.
  - [Fair Trading NSW](#) Webpage provides information on running a co-operative
- Resource – there are several sets of model rules for co-operatives in NSW. There are different rules for trading and non-trading co-operatives. These model rules are available from the Fair Trading NSW website.
- Legislation - Co-Operatives National Law Application Act 2013. [www.fairtrading.nsw.gov.au/ftw/Cooperatives\\_and\\_associations/About\\_cooperatives/Cooperatives\\_national\\_law.page](http://www.fairtrading.nsw.gov.au/ftw/Cooperatives_and_associations/About_cooperatives/Cooperatives_national_law.page)

## 2.4.5 Microboards™

This Section explains what a Microboard™ is and what it involves. This should be read in the full context of the Governance Section (2.4).

### What is a Microboard?

A Microboard™ is an organisation that is established to support an individual with:

- Planning their life;
- Brainstorming ideas;
- Advocating for what the individual needs;
- Monitoring supports and ensuring they are safe;
- Connecting with the wider community; and
- Doing fun things together.

A Microboard™ is established by a small group of family and friends for an individual.

### What is involved?

A Microboard™ is a licenced product. To call itself a Microboard™, an organisation must be established and operate under the principles set out by Vela Canada. In Canada this type of organisation is called a not-for-profit society. The equivalent in Australia is an incorporated association.

A Microboard™ is different to other types of incorporated association. Microboards™ are established to support one individual.

### What are the options?

- Each individual forms their own Microboard™
- Your group forms an incorporated association or co-operative
- You remain as an informal group and enter into a host arrangement.

### What should I consider when making decisions?

Microboards™ were developed in Canada and are used by individuals from a range of living arrangements. Because their specific purpose is to support an individual, Microboards™ do not usually manage arrangements where some support is pooled by a group of individuals. It is not possible to form one Microboard™ for all the individuals, but if you like the idea of a Microboard™, then each individual who desired this option could create their own, or you could form an incorporated association that would then perform similar functions to that of a Microboard™.

It is possible that multiple Microboards™ could operate within this shared living and/or support arrangement.

### Tips and links

- Section 2.4
- Website – Vela Canada, providing information about Microboard™  
[www.velacanada.org/vela-microboards](http://www.velacanada.org/vela-microboards)
- Resource – Vela Canada brochure detailing the principles that Microboards™ follow and the functions that Microboard™ members undertake - available from  
[www.microboard.org/PDF/principles%20and%20functions.pdf](http://www.microboard.org/PDF/principles%20and%20functions.pdf)
- Website – Microboard™ Canberra <http://microboardscanberra.org.au/>
- Resource – Introduction to Microboard™ Workbook – available from  
[www.microboardscanberra.org.au/an-energising-workshop/](http://www.microboardscanberra.org.au/an-energising-workshop/)
- Webinars and information about Microboard™  
[www.youniverse.org.au/project/microboards-for-individuals](http://www.youniverse.org.au/project/microboards-for-individuals)

## 2.4.6 Companies

Forming a company is another governance option. This Section describes what is involved. This should be read in the full context of the Governance Section (2.4).

### What is a company?

Another option your group could consider would be to form a private company. A private company has a more complex business structure than an incorporated association or a co-operative. A company is formed by one or more people who wish to have a business that is a separate legal entity to them. If your group formed a company, you could become an employee, director and/or shareholder of the company.

### What is involved?

Private companies are regulated under the *Corporations Act 2001*. This law sets out substantial obligations for company directors. Establishment and ongoing administrative costs associated with corporations' law compliance can be high. This is why the structure is generally considered to be better suited for medium to large businesses. You should get legal advice if you are thinking of setting up a company.

### What should I consider when making decisions?

Fair Trading NSW advises that:

*'In deciding what structure to choose, you should consider such factors as taxation, type and size of business, finance requirements and establishment costs. Your final decision should only be made after talking to your accountant or solicitor.'*

In addition to considering the establishment and running costs of different types of entities, it is also important to consider the compliance requirements of each type of entity. For example, the obligations of company directors compared to the obligations of a management committee in an incorporated association.

### Tips and links

- Australian Securities and Investment Commission (ASIC) has a section on its website with resources for small businesses [www.asc.gov.au/asic/asic.nsf/byheadline/Small+business?openDocument](http://www.asc.gov.au/asic/asic.nsf/byheadline/Small+business?openDocument)
- Small Business NSW has a website with resources and information about the Small Business Commissioner in NSW [www.smallbusiness.nsw.gov.au/home](http://www.smallbusiness.nsw.gov.au/home)
- The Australian Securities and Investments Commission (ASIC) offer a number of resources to support individuals and groups forming a company. The Commission has a service centre at Level 5/100 Market Street, Sydney NSW 2000. Telephone: 9911 2000.

## 2.4.7 Administering an Informal Group or Legal Entity

This Section describes what is required to administer an informal group or entity. It is part of a series in Section 2.4 Governance.

### What is an informal group or legal entity?

An informal group consists of people who come together and share a common interest or purpose. A legal entity also consists of a group of people with a common interest or purpose, but uses more formal structures and processes and has the legal capacity to:

- Enter into agreements or contracts;
- Assume obligations;
- Incur and pay debts;
- Sue and be sued in its own right; and
- To be accountable for illegal activities.

### What is involved in administering an informal group or legal entity?

Administering your group or legal entity involves managing its day-to-day operations in keeping with the decisions made by the managing group or the membership as a whole. If it is a legal entity you will have to make sure you are complying with the rules for that type of entity. For your group this is likely to include these activities:

- Financial management and/or liaison with intermediary funds managers and service providers;
- Decisions about the arrangements and costs for shared supports and any shared living expenses;
- Record keeping; and
- Communication.

Groups which pool some funds often have agreed ways of dealing with their finances. This is done to ensure that funds are used in a way that helps the group or organisation reach its aims, that group members are treated fairly and that they have information about how the money is managed. Using agreed ways of keeping records and communicating with group members may help members know what is being done to administer the group or organisation.

Being involved in the financial management may include managing any issues related to your group or legal entity's:

- Income: for example, deciding what type of bank accounts to use for shared expenses, etc.;
- Expenditure: for example, deciding what will be shared purchases (domestic assistance, etc.);

- Insurance: If you form a legal entity your group is likely to need to take out some forms of insurance; for example, indemnity for office bearers such as the treasurer and secretary of an incorporated association;
- Booking keeping and auditing (if required) of accounts; and
- Financial decisions.

In regard to record keeping, you are likely to need to maintain records such as:

- Meeting agendas and minutes;
- Financial records; and
- Any resolutions, guidelines, policies or agreements that are made.

You also need to consider how you will communicate with the group or legal entity's members. This may include:

- General information – such as newsletters;
- Emails and written correspondence with other agencies; and
- Holding meetings.

### What is involved?

Each of these tasks takes time. Some tasks, particularly financial management, require specific skills. There are requirements about how finances are to be managed for companies, incorporated associations and co-operatives, but these do not apply to how your informal group or individuals manage their funds. Talk to your funder about what is required in regard to Package record-keeping. If you use an intermediary funds manager to administer your Package, they will be responsible for financial record-keeping and paying invoices for your funded supports. You are responsible for your living expenses.

If you decide to form a legal entity, then seek specialist advice about the various financial, record-keeping and other requirements.

### What should I consider when making decisions?

In incorporated associations and co-operatives financial activities are usually done by members on a voluntary basis. So think about how involved you wish to be, as these activities can take time and sometimes require a particular level of knowledge or expertise.

Some tasks, such as auditing financial statements for your group or legal entity, will need to be done an independent organisation. The cost of these external tasks must be considered. Accountant and legal costs associated with your informal group or legal entity cannot be claimed from your Package.

Like all of the issues discussed in this Resource Kit, it is important that you develop clear processes about the administration of your informal group or legal entity. This will also assist in reducing or preventing future disagreements.

### Tips and links

- Website - Fair Trading NSW [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)
  - [Fair Trading NSW](#) Provides information about financial record keeping for co-operatives and incorporated associations in NSW.



### 2.4.8 Governance - Examples

This Section presents the governance arrangements in a sample of individualised housing and support arrangements located in the literature.

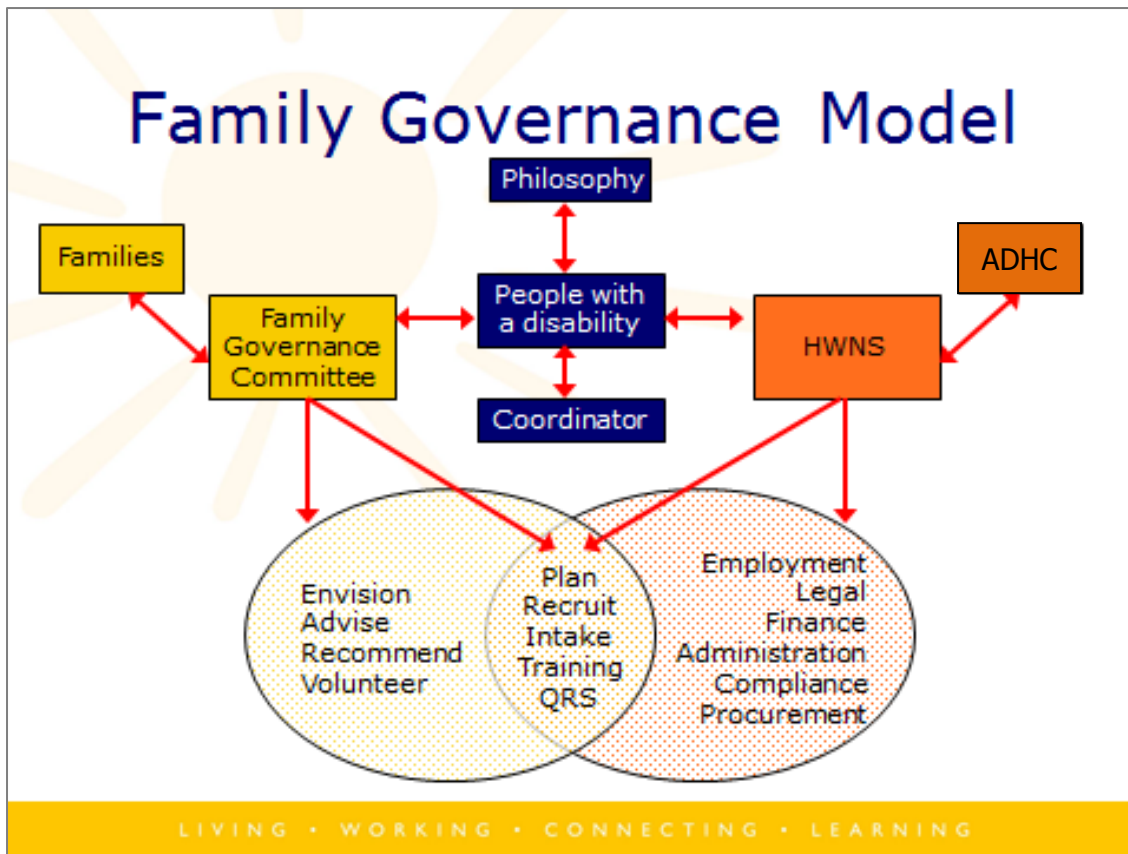
Four examples are provided of governance arrangements in different types of living arrangements for people with disabilities and the key principles that underpin these arrangements. These arrangements relate to House with No Steps in NSW, HomesWest in Queensland, Benambra in Canberra and Rougemount/Deohaeko Support Network in Canada.

#### 1. House with No Steps (NSW, Australia)

##### Governance Arrangement

This arrangement is based on a partnership between House with No Steps (HWNS) and a family governance committee. HWNS acts as a host agency by taking on the responsibility for managing the legal, employment and administrative functions of the shared living and support arrangement. The family governance committee is involved in selecting staff, making expenditure decisions and are involved in future planning.<sup>8</sup>

In some arrangements there is also a management team which comprises of HWNS Managers, Service Coordinator and three elected family representatives.<sup>8</sup>



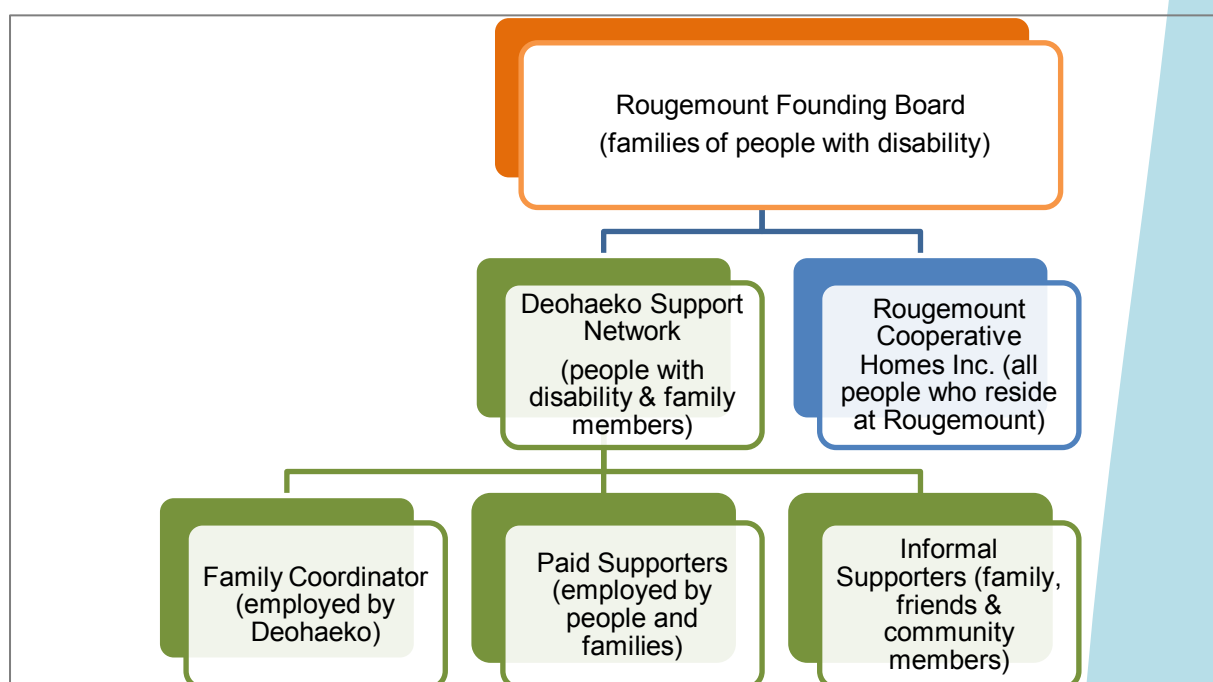
## Vision/Principles

HWNS aims to *'enhance the lives of people with disabilities.'*

The partnership is based on a memorandum of understanding that includes the following points:

- *'The Governance Group would have a high degree of influence in the planning and operation of the program, subject to regulatory or budgetary constraints on HWNS as the program provider.'*
- *'The program is to be based on principles and beliefs that value the person with a disability as a unique individual and consider each person to be an integral part of their family, social support networks and community.'*
- *'These principles will guide the program and be the basis of ongoing reflection and development in the interests of the people with a disability who participate in the program.'*

## 2. Rougemount Co-operative Homes/Deohaeko Support Network (Ontario, Canada)



## Governance Arrangement

Rougemount operates as a co-operative. This is an intentional community developed by a group of families who wanted to create a welcoming community for their 12 sons/daughters with disability. In this context an intentional community consists of a living arrangement (often a series of units) that includes people with and without disability. The co-operative consists of all people residing in the 105 units. There is an expectation that all residents will contribute to the co-operative, be good neighbours and provide some informal support to the residents with disability.

Rougemount consists of 105 homes, 12 of which are homes for people with disability. The Deohaeko Support Network consists of the individuals and families. Deohaeko arrange the paid and informal supports, but they do not share any supports or support workers.

## Principles

### a) Rougemount Co-operative Homes' Principles:

*'Rougemount is a community that:*

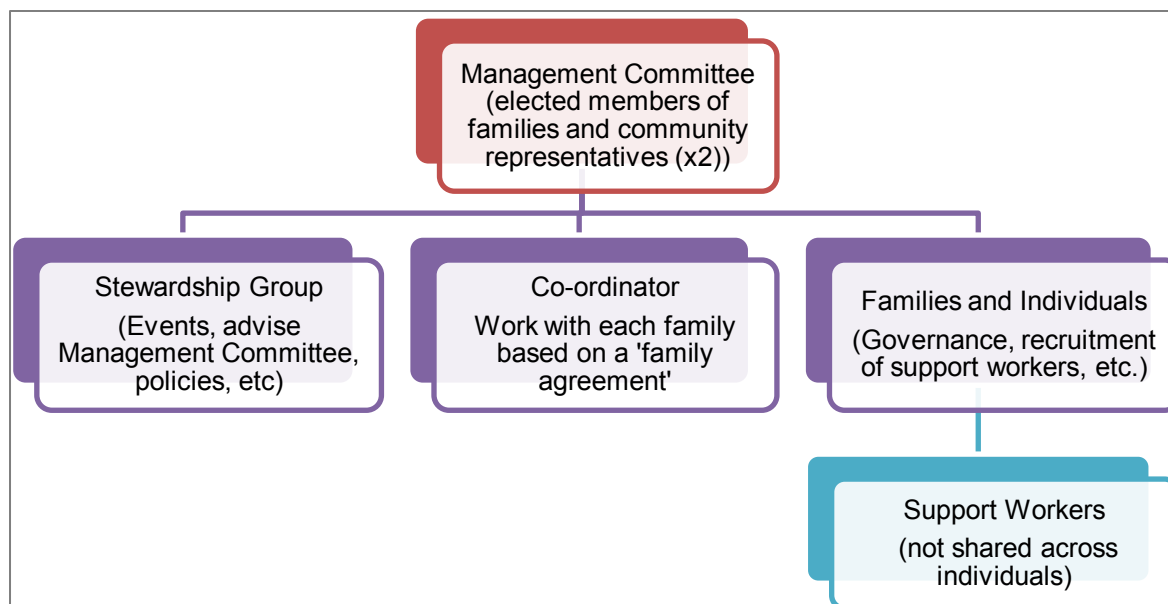
- *Is based on the traditional co-operative principles of mutual ownership, mutual effort, and support. It belongs to, and it is owned equally by, its members;*
- *Creates continuity of home life and relationships and a sense of security;*
- *Creates opportunities for working together and expects that lasting personal relationships will develop between members; and*
- *Ensures that all members will have full rights and valued roles in the running of the Co-op.'* (p.2)<sup>3</sup>

### b) Deohaeko Support Network's Principles

- *'Individualisation: Providing personal supports based on each individual's needs and desires*
- *Social support: Building mutually supportive relationships among all members of the community*
- *Self-determination: Ensuring that individuals have control over their support arrangements*
- *Participation: Enabling members with disabilities to enjoy full and active involvement in the life of the community*
- *Non-discrimination: Including and responding to the needs and preferences of all individuals regardless of the existence or degree of any label they may have previously acquired.'* (p.48)<sup>3</sup>

### 3. HomesWest (Queensland, Australia)

#### Governance Arrangement



HomesWest was formed by parents and is an incorporated association. It supports 12 people to live live on their own. It uses a family governance approach.

#### Vision/ Principles

*'To work with families to support people with a disability to establish and live in a home of their own and to be included as active and valued members in their local community'.<sup>9</sup>*

Homes West provides:

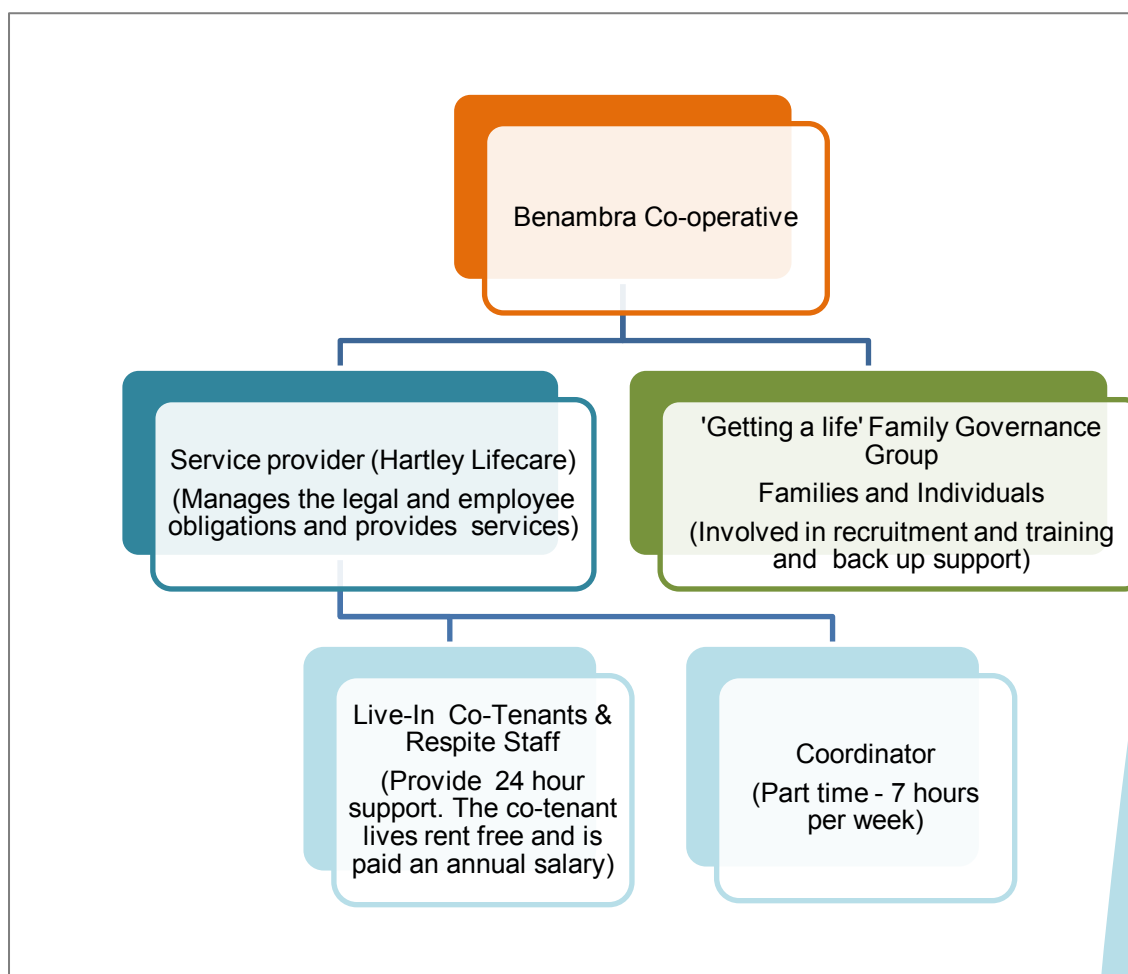
- The support needed for each individual with disability to achieve a home of their own (this includes providing planning and coordination support);
- A service that arranges this support and seeks out the best possible options for each person;
- A service that will support the person over the long term as lifestyles change and people grow, develop and age; and
- A service that consults with and involves families and friends who are seen as key players in the life of each person. They are expected to be key decision makers and supporters in that person's life.

### 4. Benambra Intentional Community (Canberra, Australia)

This is a ten unit intentional community that includes people with and without disability. It was established by three parents of young people with disability. They wanted to create an welcoming environment for their children within a mixed housing arrangement with others without disability. Some of the young people have paid co-tenants who provide

support. The co-tenants are employed by the host agency (service provider). The family governance arrangement has three key elements:

- The governance group (Getting a life) that includes the individuals, families and the Coordinator who is employed by Getting a life. This is an informal group.
- The host agency (Hartley Lifecare Inc.) which manages the three individuals' Packages, and employs, trains and pays the salaries of the live in co-residents.
- Disability ACT which provides funding and other support.



## Principles

The key values and principles for setting up this intentional community were to:

- Create a welcoming place for the residents based on good neighbourliness and respect;
- Provide safe, lifelong housing in an inclusive, friendly environment for the three members with disability (who are the head tenants);
- A commitment to active involvement in the community; and
- Collaboration and co-operation.<sup>10</sup>



## 2.6 Establishment: References

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10. Richards, S. and T. West, *A place to call home: The story of the Benambra Intentional Community*, ed. F.G.G. Getting a Life 2014, Canberra.