

How Jirsch Sutherland's 'highly unusual decision' led to new life for disability services provider



Chris Baskerville, Jirsch Sutherland Partner

In a highly unusual move, a team from Jirsch Sutherland's Brisbane office decided to trade on a business that had applied to be put into liquidation. The decision, however, proved to be the right one as the business has since been sold and successfully transitioned to its new owner.

Jirsch Sutherland Partner [Chris Baskerville](#) was appointed as liquidator to Brisbane-based disability services provider, My Life Support Services, in July 2020 and decided to continue running the business after his initial inquiries showed it was trading profitably and was cash-flow positive.

"While deciding to trade on [in a court-ordered liquidation] is highly unusual, I wanted to preserve the business of the company's overall value while taking it to market as a going concern," Baskerville says. "I determined that this would be the best outcome for creditors and other stakeholders, rather than simply closing the doors upon my appointment."

Taking up the challenge

Making the call to trade on involved a number of challenges that required his team to exercise great agility and skills in a highly complex situation. In particular, dealing with so many vulnerable people required a special type of care so the services they were receiving weren't disrupted. Another challenge arose after several back-office staff resigned during Baskerville's appointment, which meant his office and staff took over the day-to-day management of trading operations.

"This required us gaining an understanding of the NDIS (National Disability Insurance Scheme), NDIA (National Disability Insurance Agency), *Disability Services Act*, and the associated compliance requirements," he says. "One of our senior team members basically lived and breathed this business for about three months. There was also a greater urgency to act and move quickly, as our registration as a disability support provider was coming to an end on



October 31, 2020. After that date, we could no longer provide services.”

Baskerville’s team also faced the challenge of the COVID-19 pandemic, which required adding new safety systems to the business (which focused on human-to-human support). At the same time, a number of the company’s lease agreements that housed clients, were coming to an end at a critical time.

“I made the call to make an urgent application to the Supreme Court seeking approval to enter into agreements (residential leases) greater than three months, without seeking creditor approval, because time was against us,” Baskerville says.

My Life Support Services was co-owned by Susan Norman and her daughter Allison Dunn but a breakdown in family relations saw Norman apply for a court order to put the organisation into liquidation. The business employed about 75 workers and had 90 clients prior to its collapse in July 2020. It is also believed the company historically underpaid its staff.

Baskerville says having to deal with so many different stakeholders required he and his team to wear “multiple hats” depending on who they were dealing with.

“During my appointment, my office liaised with many of My Life Support Services’ clients and guardians in respect of the services being provided, including a review of each client’s service agreement,” he says. “The uncertainty surrounding the future viability of the business, as a result of the appointment of a liquidator, meant many were considering changing providers, shortly after my appointment.”

Baskerville says that as this would have meant a significant fall in business value, he and his team worked closely with each client to ensure their needs were being met in accordance with their service agreements and to rectify a number of legacy communication and reporting challenges from which the company was suffering.

“Our senior team members on site deliberately changed some processes to make the business more efficient and were able to stabilise staff and client losses. They even onboarded new staff and clients, along the journey.”

He adds, as a result of these efforts, staff and clients gained confidence in us and what we were trying to achieve, which included finding the right buyer. “The fact that the new owners were able to retain the majority of clients and found roles for so many staff is a reflection of our efforts and commitment to ensure everyone ended up with the best outcome for their needs.”

Successful transition



Mark Mulder, CEO of the Nextt group

A comprehensive marketing campaign and sales process run by Baskerville and his team received 27 expressions of interest, and nine offers. Contracts were exchanged with the successful purchaser – disability support services provider [Nextt Group](#) – in late August. The transition to the new owners has now been fully completed.

“This is a great result for the business of My Life Support Services (which changed its name to Nextt Group) as many of the existing staff will retain their jobs as they move over to the new owner and the majority of clients will be able to continue to receive the care that they rely on,” Baskerville says.

The transition of the business to Nextt Group was performed in two stages over a four-week period. The CEO of Nextt Group, Mark Mulder, says it was the “smoothest transition for any business it’s acquired”.

He says despite the challenging timelines, the strong collaboration and teamwork helped minimise disruption for the clients and their families. “The Jirsch Sutherland team jumped in the deep end and held the company together during this very challenging time,” he says. “They were always quick to discuss and resolve issues in a practical and principled way while keeping the commercial process on track throughout. We really appreciated their support.”