

# Contents

<b>CHAPTER ONE: INTRODUCTION .....</b>	<b>1</b>
USING THE GUIDE .....	2
<b>CHAPTER TWO: SOCIAL ENTERPRISE DEFINITIONS .....</b>	<b>5</b>
DEFINITIONS .....	5
SEVEN CHARACTERISTICS .....	7
A SOCIAL ENTERPRISE DEFINITION .....	8
TYPES OF SOCIAL ENTERPRISE .....	9
A DEFINITION CHECKLIST.....	9
<b>CHAPTER THREE: SOCIAL ENTERPRISE CHARACTERISTICS .....</b>	<b>13</b>
1) SOCIAL AND/OR ENVIRONMENTAL PURPOSES .....	13
2) BUSINESS (TRADING) ACTIVITY.....	14
3) REINVESTMENT OF PROFITS IN FURTHERANCE OF SOCIAL OR ENVIRONMENTAL PURPOSES.....	15
4) RESTRICTIONS ON PROPERTY RIGHTS .....	16
5) INDEPENDENCE.....	17
6) ACCOUNTABILITY.....	18
7) STAKEHOLDER PARTICIPATION .....	19
<b>CHAPTER FOUR: LEGAL STRUCTURES PART ONE – TYPES OF SOCIAL ENTERPRISE .....</b>	<b>23</b>
TYPES AND LEGAL STRUCTURE.....	24
CHARITIES .....	25
COMMUNITY INTEREST COMPANIES.....	30
MUTUALS .....	35
OTHER MEMBER-LED ORGANISATIONS .....	40
INVESTOR/SHAREHOLDER-LED ORGANISATIONS.....	41
OVERLAP BETWEEN TYPES.....	42
<b>CHAPTER FIVE: LEGAL STRUCTURES PART TWO – UNDERLYING LEGAL STRUCTURES.....</b>	<b>47</b>
UNDERLYING LEGAL STRUCTURES .....	47
INCORPORATED ORGANISATIONS .....	48
LIMITED COMPANY.....	50
LIMITED LIABILITY PARTNERSHIP.....	56
CO-OPERATIVE AND COMMUNITY BENEFIT SOCIETIES.....	58
CO-OPERATIVE SOCIETY .....	60
COMMUNITY BENEFIT SOCIETY .....	62
CHARITABLE INCORPORATED ORGANISATION .....	65
UNINCORPORATED ORGANISATIONS.....	68

ASSOCIATION .....	68
TRUST .....	69
SUMMARY OF LEGAL STRUCTURES .....	72
<b>CHAPTER SIX: ACCOUNTING AND REPORTING REQUIREMENTS LINKED TO LEGAL FORM .....</b>	<b>75</b>
ACCOUNTING STANDARDS.....	75
CHARITIES .....	77
COMPANIES .....	80
COMMUNITY INTEREST COMPANIES.....	81
COMMUNITY BENEFIT SOCIETIES AND CO-OPERATIVE SOCIETIES.....	82
REGISTERED SOCIAL LANDLORDS.....	82
LIMITED LIABILITY PARTNERSHIP.....	83
ANNUAL RETURNS AND ACCOUNTS: A SUMMARY .....	83
<b>CHAPTER SEVEN: EXTERNAL REPORTS ON ACCOUNTS .....</b>	<b>87</b>
INTRODUCTION.....	87
QUALIFIED AND UNQUALIFIED REPORTS .....	87
TYPES OF EXTERNAL REPORT.....	87
AUDIT REPORT .....	88
INDEPENDENT EXAMINER’S REPORT.....	92
ACCOUNTANT’S REPORT (OR ACCOUNTANT’S COMPILATION REPORT) .....	96
LAY AUDIT REPORT .....	98
APPLICABILITY OF DIFFERENT EXTERNAL REPORTS TO DIFFERENT SOCIAL ENTERPRISE LEGAL FORMS – A SUMMARY.....	99
<b>CHAPTER EIGHT: GOVERNANCE .....</b>	<b>101</b>
GOVERNANCE CODES .....	101
TYPES OF GOVERNANCE STRUCTURE.....	103
SUMMARY OF GOVERNANCE ASSOCIATED WITH VARIOUS LEGAL FORMS .....	105
LIMITED COMPANY.....	105
CHARITY.....	107
COMMUNITY BENEFIT AND CO-OPERATIVE SOCIETY.....	108
LIMITED LIABILITY PARTNERSHIP.....	109
<b>CHAPTER NINE: FINANCING – OVERVIEW .....</b>	<b>113</b>
CAPITAL.....	114
SOURCES OF FINANCE .....	114
GRANTS .....	115
DONATIONS .....	117
CORPORATE GIVING AND SPONSORSHIP.....	118
DEBT FINANCE .....	119
SHARES.....	121

QUASI-EQUITY.....	123
RETAINED PROFITS .....	123
SOME ENTERPRISES HAVE MORE ACCESS THAN OTHERS.....	125
DIFFERENT OPTIONS AT DIFFERENT TIMES .....	125
<b>CHAPTER TEN: TAX AND TRADING .....</b>	<b>133</b>
VAT AND COMMISSIONING OR SPINNING OUT PUBLIC SERVICES.....	133
CHARITIES .....	139
OTHER VOLUNTARY AND COMMUNITY ENTERPRISES .....	142
EXEMPTIONS AND RELIEFS APPLICABLE TO CERTAIN ACTIVITIES.....	142
CO-OPERATIVE SOCIETIES .....	143
EMPLOYEE-OWNED BUSINESSES .....	144
OTHER INVESTMENT INCENTIVES .....	144
<b>CHAPTER ELEVEN: COMMISSIONING AND SOCIAL ENTERPRISE.....</b>	<b>149</b>
THE COMPACT .....	149
NATIONAL AUDIT OFFICE SUCCESSFUL COMMISSIONING GUIDE.....	150
THE RIGHT TO PROVIDE .....	150
PUBLIC SERVICE MUTUALS .....	151
LOCALISM .....	152
PUBLIC SERVICES (SOCIAL VALUE) ACT 2012.....	157
BEST VALUE .....	159
VALUE FOR MONEY .....	159
<b>CHAPTER TWELVE: TUPE AND PENSIONS .....</b>	<b>165</b>
TUPE OVERVIEW .....	165
PUBLIC SECTOR PENSIONS AND TRANSFER OF EMPLOYMENT.....	168
<b>CHAPTER THIRTEEN: BUSINESS PLANNING AND FEASIBILITY .....</b>	<b>173</b>
THE INGREDIENTS.....	174
A FOCUS ON THE SERVICE/PRODUCT USER AND PURCHASER.....	176
START WITH INFORMATION FROM THE BUSINESS CASE OR FEASIBILITY STUDY .....	178
GETTING STARTED.....	179
ENGAGING IN THE PROCESS .....	179
SCOPE OF RESEARCH .....	179
THE MARKET.....	179
RESOURCES .....	180
PLAN FRAMEWORK AND PROCESSES.....	180
WHO TO ENGAGE IN THE PROCESS AND HOW.....	180
THE FINISHED PRODUCT – COMMUNICATING THE SOCIAL ENTERPRISE TO OTHERS .....	181
AN INTERNAL MANAGEMENT TOOL .....	182

**CHAPTER FOURTEEN: CONSIDERING OPTIONS.....185**

WHAT IS THE SOCIAL ENTERPRISE FOR? ..... 185

SOURCES OF FINANCING..... 186

INCOME STREAMS..... 187

OWNERSHIP..... 188

NATURE OF PURPOSE..... 189

ANCHORING ASSETS ..... 190

TAX ADVANTAGES ..... 191

WHAT IS RELEVANT TO ME? ..... 192

**GLOSSARY .....195**

# CHAPTER ONE

## Introduction

Social enterprises of various shapes and sizes deliver a range of public services in many locations in the UK. They range from small community-based enterprises to large national providers. The variety of services provided by social enterprises continues to grow and examples include nurseries, leisure trusts, youth services, home and residential care, primary health care, housing projects and schools support services. At their best, social enterprises engaged in delivering public services are able to draw on the flexibility and dynamism that being an independent enterprise offers, combined with a commitment to social goals and public service. This combination of enterprise and social purpose can make them effective vehicles for innovation and improvements in outcomes.

While not the only option, social enterprises are recognised by government as contributing to a wider process of change and reform of public service delivery. Government is supporting the right for NHS and social care staff to provide services through staff-led social enterprises. Linked to this, there are a growing number of public service mutuals operating across a variety of service areas and characterised by high levels of employee engagement. The localism agenda further encourages the transfer of services through support for community involvement and promotion of the diversification of public service delivery.

However, practical knowledge and support for creating new social enterprise models of delivery remains patchy. To be successful, it is vital that those involved have a clear understanding of what a social enterprise is and how certain characteristics and features of social enterprise can best be utilised in securing long-term sustainable solutions.

There are a wide range of choices and options available that have a profound effect on the nature of the enterprise as it develops. This guide gives clear explanations of the different types of social enterprise, their legal structures and frameworks, and how the choice of legal form can impact on accounting, assurance, governance, financing, trading and tax. The guide also considers the emphases placed by different social enterprise models on social purposes, stakeholder participation, profit retention, rewarding stakeholders and anchoring capital and assets to the goals of the enterprise. TUPE, commissioning and business planning are also considered.

This guide's aim is to give the reader a practical understanding of both the differences and the commonalities between types of social enterprise. This will support effective working with existing social enterprises and help readers understand the choices when establishing a new social enterprise.

## USING THE GUIDE

---

This guide is a resource for people working in or with social enterprises and for those who may be considering setting up a social enterprise. It will be useful for managers and officers involved in commissioning services or looking at new service delivery models. It can be read as a whole or dipped into for information on specific areas.

**Chapter two** looks at current definitions of ‘social enterprise’ with a view to clarifying what a social enterprise is and how to assess an organisation against criteria based on the key characteristics found in these definitions.

**Chapter three** provides a more detailed look at the various characteristics associated with social enterprise models. Not all of these characteristics are equally shared between the different types of social enterprise. So the chapter aims to help with assessing these characteristics and features when considering options for service delivery.

**Chapter four** is the first of two chapters looking at legal forms. This chapter identifies a number of main types of social enterprise. The classification of these types is based on differences in relation to the rights and responsibilities set out in the enterprise’s governing document, which define its purpose, beneficiaries, ownership, and governance.

**Chapter five** looks at most of the underlying legal structures available to social enterprises. The main focus is on incorporated structures, although trusts are also covered as they are sometimes used in combination with other legal structures to provide additional controls and safeguards over resources and decision making.

Having looked at the types of enterprise and the legal structures they can adopt, **chapters six, seven, eight, nine** and **ten** look at areas where the structure adopted can impact on:

- accounting and reporting
- assurance on financial reporting
- organisational governance
- financing options
- tax and trading.

**Chapter eleven** considers commissioning with social enterprises. It looks at a number of associated sector and government initiatives including the Compact, the NAO *Successful Commissioning* guide, the Right to Provide, public service mutuals, localism, and the Public Services (Social Value) Act 2012.

**Chapter twelve** provides an overview of TUPE and pensions and related issues for social enterprises.

**Chapter thirteen** provides a brief introduction to business planning and makes the case for a customer-focused approach, as well as considering what this means in a public service context. This chapter sets out a framework and process and considers who to involve and how, as well as how to make best use of the plan once it is completed.

**Chapter fourteen** provides the reader with a summary of key areas where the type and legal structure of the social enterprise can have an impact. The aim is to help the reader to assess how each of the types and legal structures available to social enterprises fits with particular

service delivery and business models. They are not all the same, and understanding this early on can save time and money during the business planning stage and later on.

Most chapters include a summary and a list of resources and sources of further information. These can be found at the end of each chapter. There are also examples of social enterprises delivering public services included in various chapters. Some chapters also include checklists or tables to assist with understanding and decision making.