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Department of Health

Developing Care Markets for Quality and Choice Programme

‘Owning up to care’ – A guide to the ownership and funding models of care organisations

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OXFORD BROOKES UNIVERSITY

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1 Introduction

This paper has been prepared as one of a series of documents for the Department of Health Programme "Developing Care Markets for Quality and Choice".[1] It is designed to offer a factual guide to the different legal models of ownership of care providers and some insight into the ways in which companies and organisations may be funded.

The paper is designed to help local authorities understand the range of organisational forms that are available, which in turn provides a context for strategic discussions with providers about their future plans, investment and innovation. It comprises four different elements:

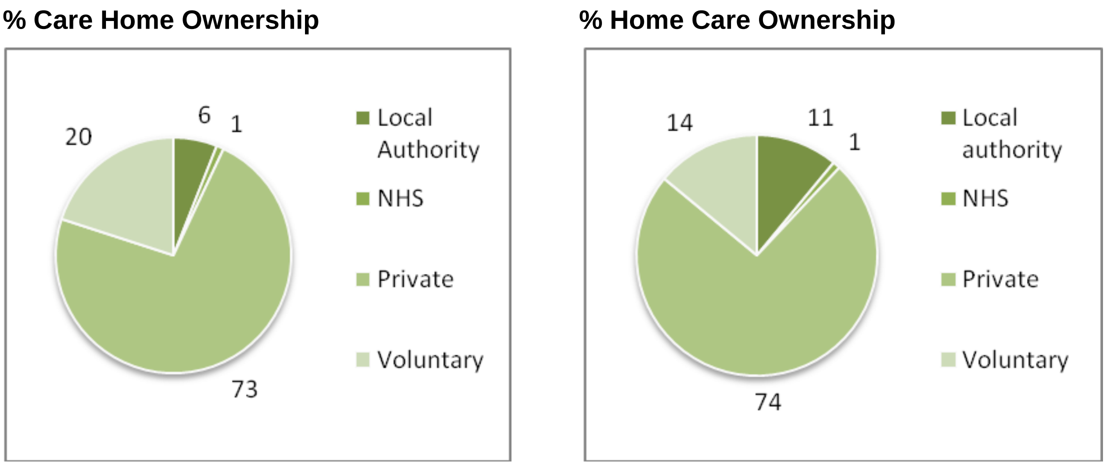
- The different types of legal entities (Section 2);
- The ways in which different organisations may be funded and financed (Section 3);
- Where further information about organisations may be found (Section 4).
- What future role local authorities might have in overseeing their local care market (Section 5)?

[1] http://ipc.brookes.ac.uk/dcmqc.html

2 The different legal entities

As Figure one illustrates the predominant forms of care ownership are in the private and voluntary sectors and hence the focus of this paper. However, ownership does not necessarily imply anything about size or viability.

Fig 1 general distribution of care ownership.[2]



Care organisations are set up and managed in different ways ranging from those that are owned and run by a single individual through to those that are part of a large corporate group. A large organisation may be a voluntary sector body with complex governance arrangements and access to multi million pounds worth of funds. A private organisation may be a small care home owned, managed, and with the bulk of care, delivered by no more than a handful of people.

There are currently six main categories[3] (some of which can be further sub-divided) into which organisations fall:

- Companies.
- Partnerships.
- Sole traders.
- Unincorporated associations.
- Mutuals.
- Charitable trusts (It should be noted that being a charity is a status rather than a legal structure given that a charity can take on a number of legal forms).

[2] From data supplied by the Care Quality Commission 2011.
[3] It is expected that from January 2013 there will be a new structure, the Charitable Incorporated Organisation, which will create a seventh category.

2.1 Companies

2.1.1 Private company limited by shares

Private companies limited by shares, are owned by shareholders who each have a stake in the business by virtue of the shares they own. Shareholders may buy and sell shares, subject to certain conditions, eg, they cannot sell them direct to the general public. This means that the owners of the company (the shareholders) may change and the proportions of the shares held by shareholders may vary.

Private limited companies are run by one or more directors, who may also be shareholders. The simplest form of limited company is a single shareholder who owns all the shares and is its only director. A company must have at least one director and at least one director must be an individual (other directors may include another company or legal entity).

The fact that a company is "limited" means its owners are not liable for its debts. Once shareholders have paid the full price for their shares, they cannot be sued for money owed by the company and their personal assets will not be at risk (unless, for example, they have given personal guarantees for loans, or they are directors and have acted inappropriately in some way). Therefore, if a limited company gets into financial difficulties it may not be possible for creditors to recover money the company owes them, nor to force the company to perform contracts which it has entered into. In other words the recourse of the creditors is limited to the assets owned by the company at the relevant time.

A private company limited by shares is the most common type of company in England. It is mostly used for profit making organisations, but may also be used for social enterprises. It is extremely rare for a charity to be structured as a company limited by shares. As charities cannot exist for private benefit it is only really possible where the shareholders are other charities.

2.1.2 Private company limited by guarantee

This type of company, a "guarantee company" is similar to a limited company as described above, but has guarantors, known as members, rather than shareholders. The members' liability is limited to the amount they guarantee to contribute to the company's assets if it is wound up. The company has no share capital.

A company limited by guarantee is normally registered for non-profit making functions because it cannot distribute its profits to members. Instead it retains its profits and uses them to meet the purpose for which the company was created.

Private companies limited by guarantee are eligible to apply for charitable status. A charity might opt for this structure if it intends to be quite large; to have employees; to deliver charitable services under contractual agreements; to enter regularly into commercial contracts; or to own freehold or leasehold land, buildings or other property. Many charities involved in provision of social care are likely to be incorporated as a company limited by guarantee.

2.1.3 Private unlimited company

An unlimited company may or may not have a share capital but there is no limit to the members' liability (this is comparatively rare as a structure).

2.1.4 Public Limited Companies

Some care providers are structured as public limited companies ("PLCs"), owned by shareholders whose liability is limited in the same way as those in a private limited company (see above). Being a PLC rather than a private limited company enables a company's shareholders to sell shares more widely than they can in a private limited company.

The shares of some (but not all) PLCs are traded on a recognised stock exchange such as the main market of London Stock Exchange or the Alternative Investment Market. If a PLC's shares are traded in this way it is known as a "Listed Company". A PLC must have at least two directors and a qualified company secretary. One of the directors must be an individual. Many of the shareholders of Listed Companies are institutional investors such as pension funds or investment firms.

2.1.5 Community Interest Companies

Community Interest Companies (CICs) are companies (limited either by shares or by guarantee) created for people who want to run a business or other activity for community benefit.

This is achieved by a "community interest test" and "asset lock", which together ensures that the CIC is established only for community purposes and the assets and profits, are dedicated to these purposes. The asset lock means that the CIC's assets, including any profits it makes, may only be transferred out of the CIC subject to certain restrictions to ensure that they are used for the benefit of the community.

Registration of a company as a CIC has to be approved by the CIC Regulator who also has a continuing monitoring and enforcement role. CICs are social enterprises but cannot be charities.

2.2 Partnerships

2.2.1 Traditional partnerships

A partnership can arise, without any formal agreement, where two or more individuals are in business together as equals in the business (as opposed to as employer/employee). However, more typically the partners have an agreement which sets out the terms on which the partnership will operate. Partners divide profits, costs and losses of the business between them. Partners also have unlimited liability for the debts of a partnership with each being liable to repay the whole of any debt, not just their share of it. A partnership has no separate legal status beyond the individuals concerned. This means it is not possible to sue a partnership; if necessary, it is the partners individually who must be sued.

2.2.2 Limited Liability Partnerships

A few care providers are structured as Limited Liability Partnerships ("LLPs"). This is a structure which is a hybrid between a limited company and a partnership and is often used in preference to a limited company for tax reasons. It is intended to offer the protection of a limited company, alongside the informality and tax benefits of a partnership. The Limited Liability Partners are known as "members" of the LLP and are the equivalent of directors of a company and shareholders combined.

2.3 Sole traders

A sole trader is someone who is in business as a self-employed person. They may have employees, but they are the person running the business. Sole traders earn their income from the money received from clients and pay income tax as a self-employed person. They are personally liable for the debts of the business, without limit, so in the case of business failure, they can go bankrupt and lose all their possessions. Sole traders are often start-up businesses or very small organisations and operate until the business is trading profitably and the sole trader decides to set up (for example) a limited company.

2.4 Unincorporated associations

Unincorporated associations are relatively straightforward to run and cost nothing to set up. They make their own rules for running the organisation and usually frame these in a constitution. A management committee is elected to run the organisation on behalf of the association's members. The members of the association are bound together for a common purpose by an identifiable constitution or rules (which may be written or oral).

Unincorporated associations do not need to register with Companies House, nor do they submit annual returns. If an unincorporated association's objects are exclusively charitable and those objects are for the public benefit, the association should apply to the Charity Commission to be registered as a charity. Although an unincorporated association cannot own property, it may be able to set up a trust to own property and assets for the community they are intended to benefit. The downside of an unincorporated association is unlimited liability. Therefore, charities that are unincorporated associations are likely to be small, local, bodies, providing less formal or structured care services.

2.5 Mutuals

A mutual society is an organisation which is set up and run by its members for their benefit. There is no single definition of a mutual organisation, but existing mutuals share a number of common features. Mutual organisations have members, rather than shareholders. These members may be the direct beneficiaries of the work of the organisation, such as patient members of a foundation trust. Alternatively, members may act on behalf of another group of stakeholders within the community. Mutuals include Industrial and Provident Societies (see below), friendly societies, working men's clubs, and building societies.

2.5.1 Industrial and Provident Societies

There is also an incorporated legal structure which is specifically mutual: the Industrial and Provident Society ("IPS"). IPSs differ from companies in that they are governed by specific IPS legislation (companies are set up under the Companies Act) and are registered at the Financial Services Authority, rather than at Companies House. There are two types of these: Co-operative Societies and Community Benefit Societies (BenComms).

A Co-operative Society is run by, and for the benefit of, its members, and the majority of any surplus made is retained within the IPS in order to maintain it. Consequently, the main object of an IPS Co-operative Society is not short-term profit, but to finance its own growth in order to benefit its members as a direct result of their participation in the business. This type of IPS cannot be a charity.

In contrast, an IPS which is a Community Benefit Society exists to provide services to people other than its own members and the organisation must be run primarily for the benefit of the community at large, rather than for its members. Profits must be put back into the organisation, and the business must demonstrate that there are 'special reasons' why it should be registered as an IPS rather than as a company. This can be achieved by including a constitutional provision requiring that benefits will not be returned to its own members and typically including an affirmation of the co-operative principle of one member, one vote, regardless of their contribution. IPSs which are Community Benefit Societies can be "exempt" charities. They are registered with the Financial Services Authority rather than with the Charity Commission but are otherwise subject to Charity Law. HMRC will decide whether they can benefit from charitable status for tax purposes.

2.5.2 Cooperatives

Co-operative businesses (whether or not they are also IPSs) are owned and run by and for their members, whether they are customers, employees or residents. Co-operatives are a flexible business model. They can be set up in different ways, using different legal structures, depending on what works for the members. Organisations that wish to operate as a co-operative must choose to operate under an existing legal form. Possibilities include: IPS (see above); Private Company Limited by Guarantee; Community Interest Company; and Limited Liability Partnership.

2.6 Charitable Trusts

A charitable trust consists of a collection of individuals (the trustees) who have come together with shared charitable aims or purposes. Charitable trusts are treated favourably for tax purposes, and provide trustees with significant flexibility to determine the direction of the trust's activities. A charitable trust does not have separate "legal personality" from its trustees, so contracts must be entered into in the name of the trustees rather than in the name of the charitable trust. Again, the downside of such an unincorporated structure is potentially unlimited liability for the trustees. There are ways to limit liability, but these are legally complex

Charitable trusts are based around a trust deed which governs the way the trust is run. It sets out how trustees determine which causes the trust will support, and may outline any limits on the way assets can be disbursed. To provide charitable status the trust deed must satisfy Charity Commission requirements. For example, a charitable trust is expressly forbidden from carrying out work deemed to be incompatible with its charitable status. Amongst other things, this means that charitable trusts must not be profit-distributing organisations.

2.7 Charitable Incorporated Organisations

This is a new legal structure only for charities. A Charitable Incorporated Organisation (CIO) is created once it has been registered by the Charity Commission. It is an incorporated form of charity which is not a company but it will be similar to a company because its trustees will normally have limited liability or no liability for the debts of the CIO. It will have a legal personality of its own which enables it to carry out business and enter into contracts in its own name rather than in the name of the trustees. It is expected to be available from early 2013.

3 Funding and Ownership

3.1 Introduction

Section 2 provided an overview of the basic legal entities through which care organisations are operated. This section describes how these entities may be financed and some of the ways in which they may be owned and controlled.

The reason for choosing a particular legal form for a business is usually based on either; its tax position, the degree of formality that the owners and the management team are comfortable with, or the purpose it is trying to achieve.

Many care organisations operate as an individual business, structured as a single legal entity, eg, a limited company, owned and funded by the directors and/or by bank loans. However, some care organisations are part of a more complicated structure, eg, a large corporate group. Some groups and some franchises operate internationally as well as in the UK. It can sometimes be difficult to establish who owns and operates the organisations and how they are financed.

3.2 Franchises

Some care providers operate as part of a franchise. For someone setting up a business on their own, buying into a franchise can provide helpful material with which to start work and the advantage of an existing brand.

A franchisee buys the right to use franchise branding within a particular area, but they are essentially working for themselves. The franchisee; normally has to follow guidelines to maintain the brand image and gets the benefit of advice and guidance from the franchisor, such as terms and conditions they can use with customers, and health and safety training.

The franchisee has to pay an upfront fee, and often an on-going franchise royalty fee. Each franchisee operates separately from the others and is not affected by the circumstances of the others except to the extent that those circumstances affect the branding of the franchise as a whole.

Individual franchisees usually set up limited companies through which to operate. Often such a company will be owned by one or two individuals who may have given personal guarantees to secure loans taken out to buy into the franchise. This means that, although they get the benefit of the franchise branding, they may start up their business in a more difficult financial position than someone who sets up a business on their own from scratch eg, having to pay back a loan and perhaps also having to pay a royalty fee. However, some franchisors will provide practical advice and encouragement.

3.3 Private equity investment[4]

Some care businesses are financed, owned or controlled by institutional investors such as private equity firms. Private equity firms are fund managers; they raise capital in the form of funds from investors such as pension funds and insurance companies. These funds typically have a fixed life of seven to ten years. The private equity firm itself will generate revenue from management fees and performance fees. Charitable care providers cannot raise funds through equity finance.

Private equity is invested in exchange for an equity stake in the business – usually in the form of shares. As a shareholder, the private equity firm's return is dependent on the growth and profitability of the business. This return is generally earned when the private equity firm sells its shareholding, eg, when the business is sold to another owner.

3.4 Other types of equity finance

If a care organisation, which is a private limited company, needs to raise more money, eg, to be able to expand its business, it may decide to issue some new shares which it can sell. There are a number of restrictions on the types of people that the directors can offer shares to, but they can buy further shares themselves or offer them to people who fall within the relevant exemptions, such as "high net worth individuals" or "sophisticated investors". This will raise some money for the company, but it will also dilute the value of the existing shareholders' shares, by creating more shares. Public limited companies can also raise money by issuing more shares and offering them for sale.

Investors who buy shares in a company are taking a risk. Their investment may increase in value, or it may lose value. This is in contrast to the role of lending money to a company, because you are entitled to receive interest on your loan and repayment of the capital irrespective of whether the business is successful or not.

3.5 Debt financing

Many care organisations will be financed at least in part by loans which they have taken out from banks or building societies. There are many different

[4] Further information about private equity funding and care can be found at
http://www.guardian.co.uk/society/2011/nov/01/private-equity-social-care-debt
http://www.laingbuisson.co.uk/Portals/1/Media_Packs/Fact_Sheets/LB_PrivateEquity_2012.pdf

types of bank and finance house which care organisations use as an alternative way to raising money by equity finance.

For example, the clearing banks (major high street banks) will typically provide overdrafts and short or medium term loans at fixed or variable rates of interest. Merchant banks will provide longer term loans, usually for larger amounts than clearing banks and for larger care organisations. Both these types of loans are usually secured against a care organisation's assets and may also be guaranteed by the directors of the care organisation. The greater the amount of assets over which the debts are secured, the lower the rate of interest that will usually be payable. Finance houses can provide other types of credit such as hire purchase or leasing.

In addition to a first loan (the "senior debt"), care organisations may obtain "mezzanine finance" ie, loans that are halfway between equity and secured debt. These facilities require either a second charge (secured debt similar to a mortgage) on the business's assets (often ranking after the first fixed or floating charge) or they may be unsecured. Because the risk for the lender is higher than for the senior debt the mezzanine debt provider may require the organisation to pay interest at a higher rate than the principal lenders.

3.6 Corporate groups

Some care organisations are part of a group consisting of a parent (or holding) company and one or more subsidiaries and sometimes sub-subsidiaries. This can be a group of similar businesses which operate in the same industry or a group where different parts of the group operate in different industries, usually where the industries are seen as complementing each other. Some care organisations are part of groups which have businesses which operate across a number of countries.

A group structure enables activities to be packaged into separate subsidiaries so that their failure will not impact too heavily on the remainder of the group. A group structure may also be used if acquisitions and disposals are contemplated because it is easier to transfer a subsidiary rather than separate off part of a larger single entity. In cases where a company is owned (whether wholly or in part) by another company and the parent company is itself owned by a further parent company, it can take time to establish where precise ownership (and hence decision making) lies. This applies particularly in cases where some of the companies involved are registered outside the UK.

3.7 Charitable groups

Some charities establish groups, where the charity is the parent. This can arise because of the restrictions imposed by charity law on the nature and level of trading activity which charities can carry out and also because of the tax position. Charities are permitted to carry out certain types of trading (primary purpose trading) which are undertaken to fulfil the charity's objectives. They are not allowed to carry out other types of trading above a small scale level, which does not fulfil the charity's objectives but is principally a mechanism to raise funds for the charity. Charities which wish to carry out non-primary purpose trading often do so using a "trading subsidiary" which is a non-charitable trading company, usually wholly owned by the charity. The trading subsidiary has to pay corporation tax, but it will usually gift aid its profits to the charity so that the tax it has to pay is either zero or minimal.

3.8 Social enterprises

Some care organisations are "social enterprises". This is not a distinct legal entity but a description of the organisation's approach. It describes a business that exists for a social purpose. Various different legal structures can be used to set up a social enterprise but it must:

- Have a clear social or environmental mission set out in its governing documents;
- Generate the majority of its income through trade
- Reinvest the majority of its profits to further its social or environmental mission.

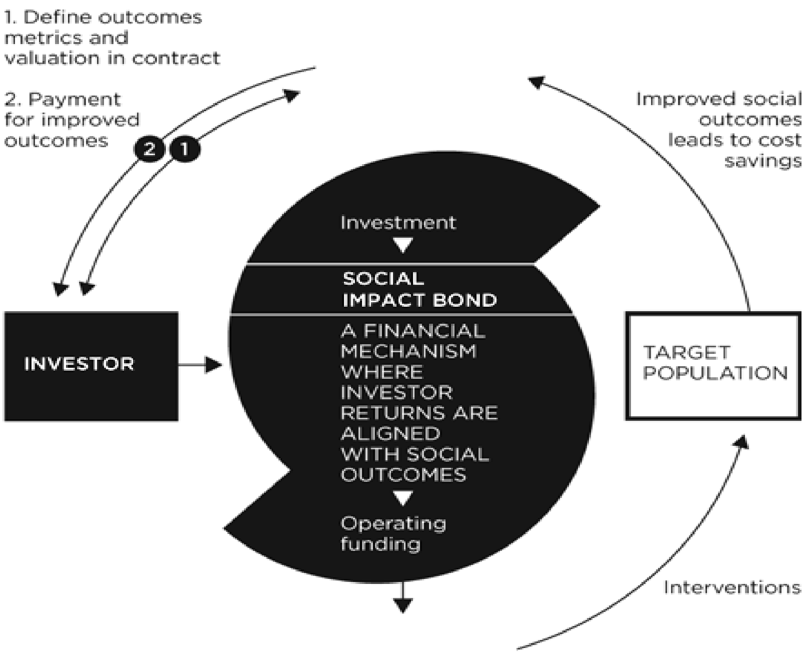
Social enterprises can be set up as private limited companies; companies limited by guarantee; limited liability partnerships; unincorporated associations; sole traders; or as industrial and provident societies. They can also be set up as Community Interest Companies (CICs), which were created specifically for social enterprises, either as a private company limited by shares or as a company limited by guarantee (see 2.1.5). Some charitable care organisations, such as Age UK, have created social enterprise arms so that they can trade. There is no specific regulator for social enterprises (although there is a regulator for CICs).

3.9 Social impact bonds

Social Impact Bonds are a relatively new form of investment for public sector projects. They are financial instruments that raise capital and link financial returns to the achievement of a particular socially desirable outcome. Public sector commissioners commit to paying for particular improvements in social outcomes for a defined population.

Often, outcomes are chosen in order to produce savings alongside a social good, in order to fund the financial returns. The social impact is tied directly to the return so that if the target is not met the investor loses their investment. Investors can be not for profit or profit making. Many investors to date have been charitable.

Fig 2 Social Impact Bond Structure



Various trials and experiments with this form of finance are currently being conducted, eg, in criminal justice and children's services. The *Caring for Our Future* White Paper also committed to develop new ways of investing in services, such as Social Impact Bonds.[5] Figure 2 is an example of a typical social impact bond structure[6].

[5] http://caringforourfuture.dh.gov.uk/
[6] Taken from http://www.socialfinance.org.uk/home

4 Sources of Information

4.1 Introduction

There are three main sources of financial information that are available on-line and which provide information on care organisations. These are:

- **Companies House**: http://www.companieshouse.gov.uk/toolsToHelp/WCInfo.shtml;
- **Charity Commission** http://www.charity-commission.gov.uk/
- **FSA Register for Mutuals** https://mutuals.fsa.gov.uk/Search.aspx

It is usually straightforward to obtain financial information about most types of company; LLPs; registered charities (except very small charities); and Industrial and Provident Societies because they are required to file their annual accounts with one or more of: Companies House; the Charity Commission; and the Financial Services Authority. However, this requirement does not generally apply to unlimited companies, partnerships, unincorporated associations, cooperatives (other than IPSs) or sole traders, unless they are registered charities.

In either case, it is usually possible to obtain financial information about a care organisation by commissioning reports from D&B (http://www.dnb.co.uk/) or a similar organisation, but this will be more expensive than the sources above.

4.2 Companies

4.2.1 Background

All UK companies and LLPs must be registered at Companies House. All limited companies (whether profit making or not-for-profit including CICs and charities) and LLPs must send certain information each year to Companies House. Unlimited companies are not generally required to send the same information to Companies House. Small and medium sized companies may file an abbreviated version of their accounts instead of the full version required of larger companies.

A number of documents relating to each limited company or LLP are available to download from the Companies House website on payment of a small fee. The information available includes the company's, or LLP's, annual accounts and its annual returns. This service is known as WebCHeck[7]. However, it should be noted that some of these searches may not be entirely reliable. For example, the obligation to file information at the Companies Registry is placed on the company itself and although the

[7] http://www.companieshouse.gov.uk/toolsToHelp/WCInfo.shtml

company and its officers are liable to fines on default there is no provision for compensating a third party who suffers loss as a result of this information being incomplete or inaccurate. In addition, even if the company has duly filed its returns on time the information revealed by the search will in many cases be out of date[8].

4.2.2 Annual returns

Limited companies and LLPs must submit an Annual Return to Companies House each year within 28 days of the anniversary of incorporation of the company or of the anniversary of the date of the last annual return. The Annual Return contains a list of the shareholders, directors and company secretary and details of the share capital of the company. It also contains details of the principal business activities of the company. This is a useful starting point when checking the directors and other people who have a close relationship with the company. It needs to be correct at the date it is submitted but the information it contains may change after that.

As noted above the Annual Return contains details of the company's shareholders, or the LLP's members. The owners can be "natural persons", ie an individual, or other types of "legal person" such as another company. If one of the owners is another company (or LLP) registered in England and Wales it is possible to obtain that company's Annual Return and see who that company is owned by and therefore (sometimes only after a number of searches) to identify who ultimately owns the company or group of companies.

The Annual Return also lists a company's directors. It is possible to search on the Companies House website using an individual's name to see a list of the directorships (of companies registered in England and Wales) held by that individual.

4.2.3 Insolvency history

The information that appears when a search is carried out for a particular company using WebCHeck will also state whether a company is listed as active, in liquidation or administration or if there is a proposal to strike off (dissolve) the company. If the company is in liquidation or administration it is possible to click on the link "Insolvency History" to bring up details of the official receiver or insolvency practitioner who is dealing with the matter.

4.2.4 Accounts

In order to acquire a picture of a care organisation's financial position, if it is a limited company, copies of its annual accounts can be obtained from Companies House.

[8] For example, if a company's first accounts cover a period of more than 12 months, the company must deliver them to Companies House within 21 months of the date of incorporation for private companies and within 18 months for public companies, or 3 months from the accounting reference date, whichever is the longer.

Every company must prepare accounts that report on the company's activities and performance during the financial year and all limited companies must send copies of their accounts to Companies House. A parent company must also prepare group accounts. The usual time period allowed for delivering accounts to Companies House is nine months from the accounting reference day for a private company and six months from the accounting reference date for a public company.

Generally the accounts:

- Must include:
  - A profit and loss account, (or an income and expenditure account if the company is not trading for a profit).
  - A balance sheet.
  - Notes to the accounts.
  - Group accounts (where appropriate).
- Should show:
  - The company's financial performance during the period to which they relate as well as setting out a "snapshot" of its balance sheet.
  - The amounts of any interest payments made by the business to service its loans and the amounts of payments made to directors.

4.3 Charities

Charities based in England with annual income of over £5,000 must be registered with the Charity Commission of England and Wales (except for some specified groups of exempt charities or excepted charities).

The Register of Charities retains information about organisations that have been recognised as charitable in law and;

- hold most of their assets in England and/or Wales, or
- have all or the majority of their trustees normally resident in England and/or Wales, or
- are companies incorporated in England or Wales

The Register is maintained from information supplied by charities and provides key facts and figures about their work and finances. The entries for larger charities with income over £500,000 include a financial profile. It also displays details of trustees and records whether charities above the reporting threshold have filed their Annual Return, Trustees' Report and accounts. It is accessible to the public free of charge on the Commission's website.

Charities must submit certain information to the Charity Commission each year, depending on the size of the charity's income. For example, if a charity has annual income of over £1 million it must submit an annual return containing charity information; financial information; and a summary information return. It must confirm that there are no serious incidents or other matters which need to be reported to the Charity Commission and it must also submit a copy of the Trustees' Annual Report, audited accounts and examiner's report within ten months of the charity's year end. Information is available free of charge to the general public from the Charity Commission website.

If a charity is structured as a company or an LLP it will also have to comply with the requirements for companies to submit information at Companies House and so that information can be obtained using WebCHeck (see above).

The same points arise when examining the accounts of a charity as arise in relation to the accounts of a not charitable organisation (see above), bearing in mind that charities are not able to distribute profits.

Equally, the information obtainable from the Charity Commission online may be out of date because it may relate to a time period that is already some time ago.

4.4 Mutuals

It is possible to obtain information about IPSs and other types of mutual society from the Financial Services Authority's Mutuals Public Register https://mutuals.fsa.gov.uk/. Documents are usually priced at between £12 and £20 each. The same points will arise in relation to the accounts and other documents of IPSs as arise in relation to companies as described above.

IPSs are not companies so Companies House will not hold information about them. Some IPSs are set up as co-operatives, which cannot be charities, but others are set up as community benefit societies, which can be charities in certain circumstances..

4.5 Other sources of information

To obtain financial information about care organisations which are not required to submit information to Companies House or to the Register of Charities or to the Mutuals Register it may be possible to commission a report from D&B as a "Non-Limited Report". These cost about £45 and are delivered quickly, but the information contained in them will vary and may be very limited.

It is of course possible to commission a D&B (or similar) search in relation to any type of business, including companies and charities and also in relation to individuals. Such a report will comment on the organisation's creditworthiness in general and it can also deal with specific aspects of its performance and financial position such as average debt collection and payment periods and the company's liquidity, i.e. its ability to pay off short term liabilities out of realisable assets.

It is also possible to obtain financial information about individuals from other publicly available sources. So, for example, it is possible to carry out insolvency searches in their name via the Insolvency Service website at http://www.bis.gov.uk/insolvency where there is a link labelled "Check the Individual Insolvency Register" on the home page. This will give you access to all the information on the register.

5 Market oversight

For many local authorities the challenge is not just about understanding organisational structures but what are the implications of these widely differing models and approaches in terms of the impact they may have on the shape and growth of local care markets. Determining what help providers might need and to understand how organisations might seek to develop and grow their service offer, can all relate to organisational structure and funding arrangements.

As set out in the *Caring for Our Future* White Paper[9] and following on from the case of Southern Cross, the government has announced a consultation concerning future oversight of the adult social care market[10].

The consultation focuses on two key areas;

- *"what further measures are needed to strengthen and clarify the responsibilities of local authorities; and,*
- *whether a targeted model of central oversight would be appropriate, if so, what the elements of this model should be".*

What is clear in both this paper 'Owning up to care' and within the White Paper is that *"the Government considers the majority of the market should continue to be overseen by local authorities (LAs), as part of their core responsibilities for ensuring local people receive care and support services".*

Therefore, an on-going part of the market facilitation role of the local authority will be in understanding how their local organisations work and function. From that they can gain an appreciation of their local markets strengths and weaknesses, its viability and vulnerability and how the local authority may help to promote a stable and diverse market, in line with the proposed duty[11] to promote a diverse, high quality and sustainable market that meets the needs of local people.

Institute of Public Care
Market Analysis Centre
January 2013

[9] http://caringforourfuture.dh.gov.uk/
[10] Market Oversight in Adult Social Care: consultation, Department of Health http://caringforourfuture.dh.gov.uk/2012/12/03/provider-failure/
[11] http://careandsupportbill.dh.gov.uk/home/