


Welcoming social enterprise into health and social care

A resource pack for social enterprise
providers and commissioners



DH INFORMATION READER BOX

Policy HR/Workforce Management Planning Clinical	Estates Performance IM & T Finance Partnership Working
Document purpose	For information
Gateway reference	7669
Title	A resource pack for social enterprise providers and commissioners
Author	DH Social Enterprise Unit
Publication date	24 January 2007
Target audience	PCT CEs, NHS Trust CEs, SHA CEs, Care Trust CEs, Foundation Trust CEs, Medical Directors, Directors of PH, Directors of Nursing, Local Authority CEs, Directors of Adult SSs, NHS Trust Board Chairs, Special HA CEs, Allied Health Professionals, GPs, Communications Leads, Directors of Children's SSs
Circulation list	
Description	A resource pack to signpost people/ organisations to support and guidance on setting up a social enterprise in the health and social care sector.
Cross reference	N/A
Superseded documents	N/A
Action required	N/A
Timing	N/A
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For recipient's use	

“One way of introducing high-quality provision will be to promote better use of health and social care ‘third sector’ providers”

Our health, our care, our say (DH 2006)

Introducing this pack

Welcome to this support pack. Whether you're already operating as a social enterprise, or you're a new or aspiring social enterprise, this pack offers you a useful gateway to some of the most important information you will need to set up or expand your service in the health and social care arena. This pack is also useful to commissioners who want to contract with social enterprises. The information in this pack is designed to support the development of social enterprise in England.

For us at the Department of Health, this pack is important for two reasons:

- It's part of the commitment we made in the *Our health, our care, our say* White Paper (2006) to support social enterprises and minimise the barriers you could face in setting up and competing fairly as health and social care providers.
- It's a chance to encourage some of the newest and most innovative providers into the health and social care system, where they will be a crucial part of achieving the vision of a patient-led NHS.

See *Our health, our care, our say* at:

<http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/Modernisation/OurHealthOurCareOurSay/fs/en>

Under this vision, more health and social care services will be provided in new and different ways, making them more convenient and effective for patients and service users. Services will also be provided by an increasingly diverse range of providers – not only giving patients real choice over how and where they are treated, but creating a system where organisations can work to their strengths and push up standards as a result.

Why is this pack important for you?

This pack isn't about selling the social enterprise model – it's about helping social enterprises understand and maximise the very real and growing opportunities in health and social care.

Social enterprise already has a robust reputation for transforming many sectors – including housing, leisure and transport – through its innovative, flexible and non-bureaucratic approach. More than ever before, the *Our health, our care, our say* White Paper, and wider health reforms, are paving the way for these organisations to replicate this success in health and social care. There are exciting opportunities for new and existing social enterprise

providers right across the NHS and social care – but there are also challenges, including workforce issues and understanding the full legal obligations of your business.

While this pack can't give you all the answers, it will give you valuable advice and links to some of the most relevant sources of help and information.

The information and how to use it:

Much of the information contained in the pack has been provided by skilled and knowledgeable members of NHS Networks. NHS Networks is an organisation which promotes and develops learning networks within the NHS – in particular the Social Enterprise Network which is a national network for those with an interest in social enterprise within health and social care. The pack recognises the different ways social enterprises can enter the health and social care system. For example, you may be:

- from an existing health or social care service, looking to set up a social enterprise organisation;
- an existing social enterprise or third sector organisation, interested in becoming involved in health or social care;
- a social enterprise partnership coming together from a mix of these backgrounds.

Depending on what sort of organisation or group you are, we know you will have different priorities and different information needs. This pack will help you:

- **understand what information you need:** each chapter begins with a short guide to which sections you might find most useful;
- **get the detail you want:** each chapter gives you clear links to the best sources of up-to-date, detailed information and support – as well as a more extensive range of links in the resource index at the end of the guide.

This pack will be updated to incorporate new information as it becomes available. We would welcome your feedback on how useful the pack is, including suggestions for any additional material which could be included. Our e-mail address is social.enterprise@dh.gsi.gov.uk.

Quick links to chapters:

1. [Setting up and financing a social enterprise organisation](#)
2. [How PCTs and other commissioners can contract your services](#)
3. [Looking after your workforce](#)
4. [Regulation and standards of care](#)
5. [New technology – what does it mean for you?](#)
6. [Resource index](#)

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Independent legal and business advice should be sought before embarking on any social enterprise undertaking.

Downloads:

Certain links and information contained within the resource pack are provided by other organisations over which the Department of Health has no control. Listing and linking should not be taken as an endorsement of any kind and we do not accept any liability in respect of the content. We cannot guarantee that these links will work all of the time and we do not have any control over the availability of the linked pages. All those using such information must satisfy themselves that the information they rely on is both current and accurate. You must take your own precautions to ensure that your processes for accessing this website do not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your own computer system. We suggest that you run an anti-virus program on all material downloaded from the internet. We cannot accept responsibility for any loss, disruption or damage to your data or your computer system which may occur while using material derived from this website.

Chapter 1: Setting up and financing a social enterprise organisation

Who is this chapter for?

This chapter will provide a useful context for most groups:

- If you are new to the concept of social enterprise in healthcare – this chapter will give you a clear definition of social enterprise and broader appreciation of the steps involved in setting up a social enterprise.
- If you are in the process of setting up a social enterprise, the information and links about the various legal forms social enterprises can take, and funding sources should be particularly helpful.
- Even if you are an existing Social Enterprise organisation, the resources highlighted here will help you ensure your enterprise is on the most appropriate legal and financial footing, and that you're aware of the ongoing need to involve stakeholders and the public in service change and delivery.

Quick links:

[What is a social enterprise?](#)

[The 'Social enterprise action plan'](#)

[What legal form is right for your enterprise?](#)

[Financing your enterprise](#)

[What skills will you need?](#)

[Consulting with stakeholders and the public](#)

[Securing property and premises](#)

[Branding and identity](#)

i. What is a social enterprise?

Social enterprises are business-like entrepreneurial organisations with primarily social objectives. Their surpluses are mostly reinvested back into their business or the community to help achieve these objectives and change people's lives for the better. Social enterprises are not driven by the need to maximise profit for shareholders and owners.

In essence, social enterprises use business solutions to achieve public good. They tackle a wide range of social and environmental issues and operate in all parts of the economy, helping make it stronger, more sustainable and socially inclusive.

Social enterprises have the potential to spot and move into gaps where services are not being provided. They can add value by providing services in innovative ways which better reflect the needs of patients and users.

The Social Enterprise Coalition, the UK's national body for social enterprise, has more about the definition of social enterprise.

www.socialenterprise.co.uk

ii. The 'Social enterprise action plan'

The Government's 2006 *Social enterprise action plan* is an important milestone that could encourage thousands of new social enterprises to start up and flourish in the UK. There are already at least 55,000 such enterprises in the UK with a combined turnover of £27 billion per year. Social enterprises account for 5% of all businesses with employees and contribute £8.4 billion a year to the UK's economy – that's almost 1% of the GDP. So as well as raising awareness of what social enterprise can achieve, the *Social enterprise action plan* aims to:

- improve the advice and support available to start-up and growing social enterprises;
- tackle the barriers that make it difficult for social enterprises to access finance and grow.

The Office of the Third Sector website has more about the definition of social enterprise, the cross-Government *Social enterprise action plan*, and the *Third sector public services action plan*. http://www.cabinetoffice.gov.uk/third_sector/

iii. What legal form is right for your enterprise?

Any social enterprise will want to adopt the best possible model for serving its customers and values. But what options are there?

'Legal form' is the term used to describe the way in which any business is set up and the rules and regulations that govern it. Whether your social enterprise is new or wants to make changes to its existing structure – there are several legal forms open to you. The choice you make will depend on a range of different factors including: the social purpose of your enterprise; the people and stakeholders involved; the scale on which it intends to operate; and the way it is financed.

Choosing the most appropriate legal structure is vital. Getting it right first time will ensure your organisation has the scope to function legally and effectively, both now and well into the future.

In brief, the legal forms for social enterprises are:

- **Limited liability company** either as a:
 - company limited by shares – where shares are sold to private investors or to the general public in public limited companies (PLCs).
 - company limited by guarantee – where there are no shareholders and the members give a ‘guarantee’ to cover the company’s liability. In these companies, profits are generally reinvested back into the company. More information is available from **Companies House** at:
<http://www.companieshouse.gov.uk/>
- **Community interest company (CIC):** a new type of company, designed for social enterprises that want to use their profits and assets for the public good. CICs have all the flexibility and certainty of the company form, but with some special features to ensure they are working for the benefit of the community. More information is available from the **CIC Regulator**
<http://www.cicregulator.gov.uk/welcome.shtml>
 - Becoming a co-operative community interest company enables CICs to operate under co-operative principles also. See **Co-operatives UK** at:
<http://www.cooperatives-uk.coop/live/welcome.asp?id=1003>
- **Industrial and provident society:** for businesses without share capital, such as various forms of co-operatives and some social enterprises. Societies can take two forms:
 - Co-operative society – run for the mutual benefit of their members, with any surplus usually being ploughed back into the organisation to provide better services and facilities.
 - Community benefit society – providing services for the community rather than its individual members. The **Financial Services Authority** has more details.
http://www.fsa.gov.uk/Pages/Doing/small_firms/MSR/Societies/index.shtml
- **Limited liability partnership (LLP):** these share many of the features of a normal partnership, but unlike ordinary partnerships, the LLP itself is responsible for any debts that it runs up, not the individual partners. See the **Companies House** website for more information.
<http://www.companieshouse.gov.uk/infoAndGuide/llp.shtml>

- **Charitable incorporated organisation (CIO):** a new form which will only be available to charities. Members and managers of a CIO will be protected from the financial liabilities of their organisation. It will be easier for people dealing with a CIO to assess any potential credit risk, benefitting both the body and those dealing with it. The **Business Link** website has more.
<http://www.businesslink.gov.uk/bdotg/action/detail?type=RESOURCES&itemId=1077476119>

Where to go for more information:

Whether you are totally new to the concept of legal forms, or already have some knowledge, there is a wealth of information available to help you.

- **Keeping it Legal** is a good introductory guide to legal forms for social enterprises. Produced by the Social Enterprise Coalition, it is written for readers with little prior knowledge of legal forms and will help you think about the major questions you need to ask when developing your organisation.
<http://www.socialenterprise.org.uk/Page.aspx?SP=1982>
- **Legal structures for social enterprises at a glance** is a useful summary table available on the DTI's Small Business Service website and showing the various legal forms and their key features.
http://www.sbs.gov.uk/SBS_Gov_files/socialenterprise/LegalTable.pdf
- **There's more to business than you think** is a good readable introduction to social enterprises, their legal structures and funding, with plenty of case studies. It has been produced by the Social Enterprise Coalition.
<http://www.socialenterprise.org.uk/cms/documents/guide.pdf>

Some social enterprises are also charities. Find out more about gaining charitable status from the **Charities Commission**.

<http://www.charity-commission.gov.uk/>

iv. Financing your enterprise

As with any business, success for social enterprises means having the funds to set up the organisation; cope with day-to-day cash flow; and grasp opportunities for growth and investment when they arise. Identifying and securing the most appropriate sources of finance are two of the first and most challenging steps facing any social enterprise.

A dependency on grants and a reluctance to borrow has, according to many commentators, characterised the third sector in the past. But things are changing fast. Right across the UK, social enterprise organisations are proving they can compete with their private sector counterparts and, by mixing money know-how with their sense of mission, they are

generating impressive financial turnovers and transforming communities as a result. This sort of success, however, depends on sound financial planning.

Climbing the ladder – a step by step guide to finance for social enterprise is a practical guide produced by Social Enterprise London. It includes information on preparing an operating budget; finding capital; financial management; and preparing accounts.
http://www.sel.org.uk/guides_for_se.html

Other sources of advice or potential finance

Loans and borrowing:

Adventure Capital Fund – helping organisations to become stronger and more self-sufficient through enterprise.
www.adventurecapitalfund.org.uk

BIGinvest – which encourages business-like responses to social problems and lends directly to social enterprises and community development finance institutions.
www.biginvest.co.uk

Bridges Community Ventures – the UK's first community development venture capital company, which invests in ambitious businesses in the most under-invested parts of England.
www.bridgesventures.com

Charity Bank – a bridge between people who would like to have a deposit account that benefits society, and organisations that can deliver excellent charitable solutions.
www.charitybank.org

Community Development Finance Association – the trade association for community development finance institutions (CDFIs). These are sustainable, independent financial institutions that provide capital and support for organisations to develop and create wealth in disadvantaged communities or underserved markets.
www.cdfa.org.uk

Co-operative and Community Finance – provides loan finance to co-operatives, employee-owned businesses and social enterprises. It raises money primarily by the issue of public shares and lends it for projects with a social purpose and collective benefit.
www.icof.co.uk

The Co-operative Bank – provides financial services with a commitment to conduct its business in a socially and environmentally responsible way.
<http://www.co-operativebank.co.uk>

Local Investment Fund – offering loans to social and community enterprises that have been unable to secure income from traditional sources. By providing loan finance, it enables them to move from grant dependency towards self-sufficiency.

www.lif.org.uk

Triodos Bank – an ethical bank that offers a comprehensive range of banking services for social businesses, charities and groups. It lends money only to organisations and businesses pursuing positive social, environmental and cultural goals.

www.tridos.co.uk

Unity Trust Bank – a socially responsible bank providing services to the trade union, social enterprise, charity, voluntary, credit union and membership organisation sectors.

www.unity.uk.com

Grants and funding advice:

Breakthrough – set up by Community Action Network and Permira (private equity firm) to provide strategic support and growth capital to selected established social enterprises to help them scale up their businesses.

<http://www.can-online.org.uk>

<http://www.permira.com>

The Department of Health – is establishing a social enterprise investment fund from April 2007.

www.dh.gov.uk/socialenterprise

Early Growth Funds – this programme was developed by the DTI Small Business Service to encourage risk funding for start-ups and growth firms.

<http://www.sbs.gov.uk/sbsgov/action/layer?topicId=7000000154>

Futurebuilders England – a government-backed investment fund to help the voluntary and community sectors deliver better public services. It provides a combination of grants and loans for organisations that deliver public services.

www.futurebuilders-england.org.uk

Government Funding – an online portal for the social economy sector with gateways to a range of government bodies, including the Department of Health and the Department for Communities and Local Government.

www.governmentfunding.org.uk

Philanthropy UK – promoting and sharing knowledge and best practice to all those involved in giving. A key objective is to widen participation in the giving community.

www.philanthropyuk.org

Profunding – offers up-to-date news and information to all those involved in raising finance for social economy organisations.

<http://www.fundinginformation.org.uk/ProfundingHome.html>

The Sustainable Funding Project (NCVO) – encourages and enables social economy organisations to explore and exploit a full and diverse range of income and finance options to develop a sustainable mix of funding.

www.ncvo-vol.org.uk/sfp

The Third Sector Capacity Building Programme – set up by the Department for Education and Skills (DfES) to increase the involvement of local groups in development and decision-making relating to children's trusts. It also aims to improve local groups' competitiveness when bidding for children's and young people's services contracts.

A brief explanation is at:

http://www.dfes.gov.uk/pns/DisplayPN.cgi?pn_id=2006_0090

The UK Social Investment Forum – the UK's membership network for socially responsible investment (SRI). Its primary purpose is to promote and encourage the development and positive impact of SRI amongst UK-based investors.

www.uksif.org

Venturesome – offers loans and investment support that fill the gap between grants and bank loans.

www.cafonline.org/default.aspx?page=6903

v. What Skills will you need?

People both starting up and working in new social enterprises will bring with them a wide range of skills, and they should have the freedom to use these in their new organisations.

You may wish to develop new skills which will help you successfully compete for funds in the newly-emerging health economies. Skills around leadership, financial management, business planning, project management and knowing how to successfully obtain funding

will be important. While many of these skills may be learnt on the job, they may also be developed in other ways, whether through courses or some form of job placement or work shadowing.

- There is a range of support you may find useful. See the ‘Skills and learning’ section of the resource index at the end of this guide.

vi. Consulting with stakeholders and the public

Social enterprises and entrepreneurs are valued for the creativity and fresh thinking they are bringing to sectors such as housing, recycling; food; transport and many more. They are often valued because they are in touch with the grass roots. One of the strengths of social enterprises is their capacity to be in tune with the needs of service users and communities, resulting in the development of services that are really needed.

We can't invite this sort of innovation into the health and social care sectors without being ready for redefined and even radically new models of care.

However, no changes to services should ever be proposed, planned or carried out without consulting and fully involving patients, service users and local communities.

Whom do you need to consult and when?

Section 11 of the Health and Social Care Act 2001 says NHS organisations have a statutory duty to involve and consult patients and the public on the following:

- planning services for which they are responsible – not just when a major change is proposed but on an ongoing basis
- developing and considering proposals for change to the way services are provided
- or even when making decisions that may affect how services operate.

Although Section 11 does not *directly* apply to non-NHS organisations, primary care trusts (PCTs) must make sure that the duty to involve and consult the public is complied with when a service is commissioned, under NHS arrangements, from any other provider – including social enterprises, third sector bodies and independent companies.

The Department of Health has produced detailed guidance on how to involve patients and the public in service delivery and design.

- **Strengthening Accountability: Involving patients and the public**, policy and practice guidance, Department of Health, February 2003 www.dh.gov.uk

Other useful information on involving patients and the public includes:

- **Keeping the NHS local** (Department of Health, February 2003) outlining a new approach to local service design and consultation.
<http://www.dh.gov.uk/assetRoot/04/08/59/47/04085947.pdf>
- **A stronger local voice: a framework for creating a stronger local voice in the development of health and social care services** (Department of Health, December 2006) including information about the new Local Involvement Networks – LINKs.
http://195.33.102.76/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4137040&chk=U6PSmq

vii. Securing property and premises

The property options for social enterprises will vary depending on your circumstances. However, there are some useful guiding points which will help to get you started:

Using NHS property: social enterprises considering the use of NHS property should see the **Estatecode** guidance for NHS Trusts and primary care trusts (PCTs) available on the Department of Health website. This gives information on the leasing or the sale of NHS assets. It includes information on town planning, all aspects of leases, management of property and sales of land and buildings.

http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4119937&chk=CUIRnq

Discretionary grants: you should also contact your local PCT to enquire about discretionary grants that may be available to assist in the acquisition or improvement of non-NHS premises. These grants, however, are subject to budgetary provisions and conditions. Full details of all PCTs are available on the **NHS website**.

<http://www.nhs.uk/England/AuthoritiesTrusts/Pct/Default.aspx>

Local Authorities and English Partnerships: are other sources of public sector accommodation that social enterprises should consider. **English Partnerships** publish details of surplus public assets on their website every three months.

www.englishpartnerships.co.uk

Regional Development Agencies and the **Business Link** network: may be able to provide advice and information supporting social enterprises with their accommodation needs.

www.englishrdas.com

www.businesslink.gov.uk

Get professional advice: If you are considering the use of premises owned by the NHS, other public sector organisations or the private sector, before going ahead, always take professional advice from a property sales or letting specialist and a solicitor. Such specialist advice may include looking at private sector options, where other more profitable commercial users could be used to support the social enterprise.

Find more useful information at:

- **The Royal Institution of Chartered Surveyors** – outlining the benefits of using professional advice and how to find a local surveyor to help in locating suitable premises and advise on terms of occupation or sale; planning issues; rating; change of use; insurance; service charges; and taxation. www.rics.org
- **The Law Society** www.lawsociety.org.uk

Please remember that independent financial advice should always be sought when considering property investment or ownership.

viii. Branding and identity

Social enterprises providing services on behalf of the NHS are required to use the NHS logo in line with the NHS identity policy. This helps patients and the public identify and access NHS services and helps to reassure them that services are provided in line with NHS standards and values. The Department of Health branding team is currently developing guidelines specifically for social enterprises and these will be made available via the NHS Identity Website at: www.nhsidentity.nhs.uk

For further information and support in the meantime please contact the NHS Identity Helpline by email at nhs.identity@dh.gsi.gov.uk or call 020 79725250.

Please note that the NHS logo is a registered trademark and can only be used in accordance with our guidelines or with advice from the NHS Identity Helpline.

Chapter 2: How PCTs and other commissioners can contract your services

Who is this chapter for?

- If you're a new or existing social enterprise or partnership, you may well be coming into health and social care from other sectors and feel you need a better understanding of how the NHS and social care function, and how care is commissioned.
- As NHS or social care professionals thinking about setting up as a social enterprise or entering into a partnership, you may need to update yourself on the major changes that have taken place recently in how primary care is commissioned.

In either case, this chapter will help you develop or update your knowledge of the NHS 'system' and get to grips with the new primary care commissioning arrangements that represent some of the most ambitious changes to primary care services since the creation of the NHS.

Quick links:

[How the NHS works](#)

[How social care works](#)

[What is commissioning?](#)

[Further help and resources](#)

i. How the NHS works

Even for professionals who have worked in the NHS for years, it's not always easy to piece together the complex and rapidly changing picture of the NHS as one 'system'. So, for organisations approaching the health service from outside, the national and local structures of the NHS are likely to seem even more confusing.

- Who is responsible for securing services for the local community?
- How many strategic health authorities are there and what areas do they cover?
- What is their role and how do they relate to primary care trusts (PCTs)?

If you're not completely sure of all the answers, you're probably not alone. But it's important to grasp how the different parts of the health and social care system fit together so you can understand where you, as a social enterprise provider, will fit in.

ii. How social care works

The term 'social care' covers a wide range of services which are provided by local authorities and the independent sector. Social care comes in many forms, such as care at home, in day centres or residential or nursing homes. The term also covers services such as providing meals on wheels to the elderly, home help for people with disabilities and fostering services.

There are several ways you can find out more:

- **nhs.uk** – is a good place to start and has a useful introduction to the NHS and how it works.
<http://www.nhs.uk/england/AboutTheNhs/Default.cmsx>
- **The Department of Health website** – has a useful section explaining social care and how it works
<http://www.dh.gov.uk/PolicyAndGuidance/HealthAndSocialCareTopics/SocialCare/AboutSocialCare/fs/en>
- **Delivering health and social care** is another section on the Department of Health's website that gives a good overview of how the DH, the NHS and social care all work together as a 'system'.
<http://www.dh.gov.uk/AboutUs/DeliveringHealthAndSocialCare/fs/en>

iii. What is commissioning?

'Commissioning' in today's NHS is about more than simply securing care for local communities. The Government has been clear that excellent, flexible and creative commissioning is the key for local health economies to design the sort of services and structures they need for the future.

Until recently, most commissioning was carried out by primary care trusts (PCTs) on behalf of their local populations. But things are changing.

- Increasingly PCTs are developing a deeper expertise in contract negotiation and management to help support better commissioning practice locally.
- More commissioning of primary care is being devolved to GPs and other frontline professionals – the people closest to patients and most in tune with the needs and preferences of their local communities.

The new arrangements are intended to provide a flexible framework within which PCTs and primary care professionals can plan, commission and develop high-quality, patient-focused services from a variety of providers – including individuals, partnerships, social enterprise organisations and standard companies.

This is good news for social enterprises looking to enter the health and social care arena. Commissioners will be looking for innovative, high-quality services that can match the needs of local communities and they will have the contractual freedoms to secure them.

Likewise, in social care, commissioning is crucial to providing effective social care for children and adults. In social care it is the role of local authorities to decide how to spend their money to get the best possible services for local people, based on assessed needs. Services are provided not only by local authorities themselves. The majority are provided by independent sector private and voluntary providers. While commissioning in the NHS is a high-level strategic function, in social care local authorities commission specific services for individual people as well as more broadly.

It must be remembered that social care is not free at the point of use, but takes account of the resources that individuals have. In addition, some 30 per cent of social care is arranged and paid for privately by individuals known as “self-funders”.

Joint commissioning is where two or more agencies, which may be health *and* social care organisations, pool their resources to implement a common strategy for providing services.

iv. Further help and resources

The Department of Health strongly advises potential providers to obtain independent legal and other specialist advice before establishing a new provider organisation and before entering into any contract.

The new commissioning arrangements for the reformed NHS were published in July 2006 in *Health reform in England, update and commissioning framework*, available at: www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4137226&chk=D2YSig.

The forthcoming *Commissioning framework for health and wellbeing* will have a particular focus on supporting commissioners to secure a wide range of providers offering different and more innovative types of services, tailored to the needs of individuals.

The **commissioning** pages on the Department of Health’s website also give a useful overview and offer links to relevant guidance. It’s worth consulting these pages regularly to ensure you stay up to date with new and revised guidance.

<http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/Commissioning/fs/en>

See also:

- **Primary medical services contracts: a guide for potential contractors** – this is aimed specifically at new or potential providers and offers an introduction to primary medical services contracting and the surrounding regulatory framework. It also provides helpful insights into the issues and processes that potential contractors, including social enterprises, will have to consider to secure a primary care contract.
<http://www.pcc.nhs.uk/3.php>
- **The Department of Health Primary Medical Care contracting website** – provides the latest guidance and information for contracting routes.
<http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/PrimaryCare/PrimaryCareContracting/fs/en>

Other sources of help:

- **Third sector commissioning task force report** – offers tips to local organisations on how to successfully bid for PCT contracts and is available on the DH website.
http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4137144&chk=qkJclT
- **The NHS primary care contracting website** – provides a range of information and resources to support implementation of the primary care contracting arrangements at PCT and SHA level, including a team of advisors who can provide detailed, expert information.
www.pcc.nhs.uk
- **The NHS Confederation** website gives more information about primary care contracts, including information about learning events and previous ‘meet the market’ events which give providers and PCTs the opportunity to meet and discuss options.
www.nhsconfed.org
- **The NHS Purchasing and Supply Agency** works to make sure that the NHS gets the best possible value for money when purchasing goods and services.
www.pasa.nhs.uk
- General guidance on procurement is available on the Department of Health website.
www.dh.gov.uk/ProcurementAndProposals/fs/en

Chapter 3:

Looking after your workforce

Who is this chapter for?

- If you are planning to employ NHS or local authority staff as part of your social enterprise, this chapter offers a gateway to the most important information and advice you'll need, including the TUPE Regulations and the implications of Agenda for Change.
- Even if you are a free-standing social enterprise and will not employ NHS staff – this chapter will give you a useful insight into the good HR practices that are being promoted and followed by NHS employers.

Quick links:

[Involving staff in service reform](#)

[Transfer of employment \(TUPE\)](#)

[Pensions](#)

[Developing your HR strategy](#)

[Further help and resources](#)

i. Involving staff in service reform – legal obligations and general good practice

Involving NHS staff

Organisations employing NHS staff have clear legal obligations when it comes to consulting their workforce over service change, and in any subsequent tendering or business transfer processes.

Consultation

Specifically, where an organisation or group of professionals from within the NHS want to review services or explore the scope for setting up new ones (including a social enterprise), they should follow some basic good practice procedures to ensure decisions are made in an open, fair and transparent way.

Consultation with staff representatives should be based on the principles set out in **Section 26 of Agenda for Change**, at a stage that allows alternative proposals to be explored and developed. It is important to remember that consultation is more than the passage of information and should be conducted in the spirit of partnership. But equally it is not a joint decision making process. The NHS Employers website has more. Follow the link for 'NHS terms and conditions of service handbook'.

<http://www.nhsemployers.org/pay-conditions/agenda-for-change.cfm>

- Organisations employing NHS staff should follow the principles of the **Information and Consultation Regulations 2004**.
<http://www.opsi.gov.uk/SI/si2004/20043426.htm>

Involving local authority staff

There are some useful sources of help and advice available if you need to involve local authority staff in service reform. These include:

- **Guidance from the Department for Trade and Industry**
<http://www.dti.gov.uk/files/file20761.pdf>
- **Local Government Employers** – who provide general information, as well as specific guidance on involving staff and TUPE at: www.lge.gov.uk/lge/aio/70854

It's important to note:

- A failure to undertake the appropriate consultation may give rise to a legal challenge.
- Consultation required under the TUPE Regulations is not a substitute for this wider consultation process, as this legal requirement is only triggered once a decision to award a contract has been made.

ii. Transfer of employment (TUPE)

Where, after consultation and a tendering exercise, a contract for an existing service is awarded to a new provider (for instance a social enterprise), it is likely that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will apply.

TUPE takes effect when a transfer of an undertaking, business or part of an undertaking or business, occurs. The purpose of the legislation is to preserve the employment and the associated terms and conditions of service of those staff affected by the transfer.

The Regulations require:

- the transferring employer to provide relevant information about terms and conditions of the affected staff to the transferee employer;
- both parties to consult with representatives of the affected workforce before the transfer takes place.

Even in a situation where it is considered that TUPE does not apply, the **Cabinet Office code of practice** on staff transfers requires employers to ensure they treat employees no less favourably than under TUPE.

http://archive.cabinetoffice.gov.uk/opst/workforce_reform/code_of_practice/index.asp

iii. Pensions and other related terms and conditions

Most social enterprises will have their own pension arrangements for staff, and will not be part of the NHS Pension Scheme.

- The Department of Health provides information on pension entitlement issues on its website at:
http://www.dh.gov.uk/PolicyAndGuidance/HumanResourcesAndTraining/ModelEmployer/Pensions/fs/en?CONTENT_ID=4052091&chk=Q72Eq9

Pension arrangements are a complex area and we recommend you seek specialist advice.

iv. Developing your HR strategy

Effective HR policies are crucial to obtaining and retaining a high performing workforce. The Department of Health has produced a framework to help local organisations develop their HR strategies. While the framework was originally designed for use by NHS organisations, much of the good practice it outlines can be applied to other settings, including social enterprises. The document can be downloaded from:

http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4124746&chk=iv8Gmm

NHS Employers also provides information, advice and good practice across a range of HR areas, including recruitment and retention, improving working lives, equalities and diversity and UK employment practice. For further information see: <http://www.nhsemployers.org/>

v. Further help and resources

- **Partnership** – The Department of Health, NHS Trades Unions and NHS Employers have developed a Partnership Agreement to promote partnership working at national level. The core principles of partnership outlined in this document can apply equally at local levels to support effective management of change.
www.dh.gov.uk/PolicyAndGuidance/HumanResourcesAndTraining/fs/en
- **Equity in implementing organisational change** – NHS Employers (April 2006)
<http://www.nhsemployers.org/workforce/workforce-1114.cfm>
- **The Transfer of Undertaking (Protection of Employment) Regulations 2006 Statutory Instrument no. 246.**
<http://www.opsi.gov.uk/si/si2006/20060246.htm>
- **Staff transfers in the public sector statement of Practice** – Cabinet Office (January 2000)
http://www.hm-treasury.gov.uk/media/7BB/E3/staff_transfers_145.pdf

- **Code of practice on workforce matters in public sector service contracts** – Cabinet Office (March 2005)
http://archive.cabinetoffice.gov.uk/opsr/workforce_reform/code_of_practice/index.asp
- **The Information and Consultation of Employees Regulations 2004 Statutory Instrument 2004 No. 3426**
<http://www.opsi.gov.uk/SI/si2004/20043426.htm>

Chapter 4:

Regulation and standards of care

Who is this chapter for?

- If you are a social enterprise from outside the NHS or social care, you will find this chapter a particularly useful starting point in finding out more about the current regulation procedures and national standards that affect all organisations offering health and social care in this country. The Department of Health is currently considering responses to a consultation on major changes to the regulation framework, with the aim of providing a lighter-touch universal framework of regulation for health and adult social care.

Quick links:

[Regulation and standards for healthcare](#)

[Regulation and standards for social care](#)

[Clinical indemnity](#)

i. Regulation and standards for healthcare

Robust regulation of all organisations offering health and social care, as well as consistent national standards, exist to ensure patients and service users get fair access to safe, high-quality care, whoever treats them and wherever they live. As a more diverse family of providers is encouraged into the market – at first private sector partners and now increasingly voluntary and social enterprise organisations – regulation and standards have never been more important.

Private, voluntary and social enterprise sector health and social care is regulated by the **Care Standards Act 2000**.

www.opsi.gov.uk/acts/acts2000/00014--c.htm#22

The Act needs to be used alongside the associated Regulations, the most relevant being:

- **The Private and Voluntary Health Care (England) Regulations 2001**
<http://www.healthcarecommission.org.uk/serviceproviderinformation/independenthealthcareprivateandvoluntary.cfm>
- **The Private and Voluntary Health Care (England) (Amendment No.2) Regulations 2006**
www.opsi.gov.uk/si/si2006/uksi_20061734_en.pdf

- **The Private and Voluntary Health Care (England) (Amendment) Regulations 2006**
www.opsi.gov.uk/si/si2006/20060539.htm
- **The National Care Standards Commission (Registration) Regulations 2001**
www.opsi.gov.uk/si/si2001/20013969.htm

The Act, in conjunction with the relevant Regulations, sets out the types of private health care that are subject to regulation. They also set out what standards independent, voluntary sector and social enterprises are required to meet.

The regulatory authority is the Healthcare Commission who also carry out performance assessment for the NHS. It is the role of the Healthcare Commission to monitor and inspect healthcare providers to ensure they are meeting their obligations under the law. Anybody who provides services that are subject to regulation must register with the Commission and will need to pay a registration fee and ongoing annual fees.

- For more information on the Healthcare Commission see:
<http://www.healthcarecommission.org.uk/homepage.cfm>

National minimum standards

There are national minimum standards for independent health care which will apply to social enterprises providing health services. The standards help illustrate what organisations should be doing to comply with the law.

- Independent healthcare – national minimum standards regulations
<http://www.dh.gov.uk/assetRoot/04/07/83/67/04078367.pdf>

ii. Regulation and standards for social care

The principal Regulations governing social care providers are:

- The Care Standards Act 2000
- The Care Homes Regulations 2001
- The Domiciliary Care Agencies Regulations 2002
- The Adult Placement Schemes (England) Regulations 2004

Copies of all Regulations relevant to social care providers are available on the **Office of Public Sector Information** website at:

http://www.opsi.gov.uk/legislation/about_legislation.htm

All providers of social care services are registered, inspected and regulated by the Commission for Social Care Inspection (CSCI). CSCI Business Relationship Managers can provide extensive advice on regulatory requirements and we advise all aspiring social enterprise organisations to contact CSCI at an early stage in their planning.

Contact CSCI on: 020 7979 2000 or visit the website at: www.csci.org.uk

National minimum standards

The Department of Health publishes various national minimum standards which the CSCI uses when assessing whether service providers are complying with the relevant Regulations.

For care homes, these are:

- Care Homes for Adults (18–65) and Supplementary Standards for Care Homes Accommodating Young People Aged 16 and 17 – National Minimum Standards
- Care Homes for Older People – National Minimum Standards

For domiciliary care agencies, these are:

- Domiciliary Care – National Minimum Standards

For adult placement schemes, these are:

- National Minimum Standards for Adult Placement Schemes.

The national minimum standards are available on the Department of Health website at: <http://www.dh.gov.uk/PublicationsAndStatistics/Publications/fs/en>

iii. Clinical indemnity

If you are providing services to NHS patients, you need to have suitable indemnity provisions in place to protect you in the event of a clinical negligence claim.

The latest **NHS indemnity guidance** can be found on the NHS Litigation Authority (NHSLA) website at: <http://www.nhsla.com/Publications/>

Choose 'claims publications' and see two documents:

- **CNST rules** – which explains about the clinical negligence scheme for trusts, and
- **RPST rules** – which explains the liabilities for third parties scheme and the property expenses scheme.

Liabilities for third parties scheme (LTPS) and property expenses scheme (PES):

Collectively, these schemes are often referred to as the ‘risk pooling schemes for trusts’ or RPST. From 1 April, 1999, the NHSLA began to handle public and employers’ liability claims against trusts, in respect of accidents occurring on or after that date. The NHSLA also took on responsibility for managing property, fidelity guarantee and other ‘first party’ losses from the same date.

The rules governing membership of RPST , along with the document *RPST reporting guidelines*, are posted on the authority’s website at:

www.nhsla.com/claims/schemes/RPST/

Chapter 5: Information systems and new technology – what does it mean for you?

Who is this chapter for?

- Any social enterprise aspiring to enter the health and social care market needs to understand all the ways that technology is underpinning new, more patient-focused service delivery.
- Whether you are already part of the NHS or external, this chapter is about giving you a short insight into the new technologies that are helping frontline professionals make a step change in the way they care for patients.

Quick links:

[What is the National Programme for IT?](#)

[The new technologies and social enterprise](#)

[Further help and resources](#)

i. **What is the National Programme for IT?**

The National Programme for IT is not just about IT in the NHS, it's about directly and significantly improving patient care as well as the overall health of the nation. In essence, National Programme technologies will transform the way information flows around the health and social care service.

One key aim of the National Programme is to give healthcare professionals safe, secure and easy access to patient information – when and where it's needed. It is creating a multi-billion pound IT infrastructure, which, as well as improving care, will also help clinicians and others in the care team communicate more easily with each other; see and share the same information; and waste less time on paper-based processes.

The programme is bringing in technologies which will mean big changes for everyone – providers and patients alike:

- **Electronic patient records** that can be accessed by the appropriate care professional whenever and wherever they are needed: putting an end to lost paper records that have to be physically sent from one site to another and often can't be consulted in an emergency.
- **Choose & Book** allowing patients to book a convenient time and place for their hospital treatment, instead of waiting to be told when to attend.

- **Picture Archiving and Communications System** allowing clinicians to view and share digital images such as x-rays.
- **Electronic Transfer of Prescriptions** connecting up prescribers, pharmacists and reimbursement agencies, and making it easier for patients and clinicians to monitor and review their medicines.
- **N3** – the new high-speed NHS broadband network linking up NHS staff.

ii. The new technologies and social enterprise

The new technologies are not the exclusive domain of the NHS. In a system where new sorts of providers are entering the market every day, and where doctors, nurses, therapists and a host of others are working in multi-professional teams to join up care for patients and service users – the National Programme is relevant to everyone.

Any provider must be able to access and record information within the strict confidentiality and security controls embedded in the programme. As a potential provider, you will be bound by these controls, but you will also benefit from the huge improvements the new IT is making possible for patients, staff and organisations.

iii. Further help and resources

- Learn more about the National Programme in general on the **Connecting for Health** website.
<http://www.connectingforhealth.nhs.uk>
- Find out more about information governance and confidentiality from the **Department of Health** website.
<http://www.dh.gov.uk/PolicyAndGuidance/InformationPolicy/fs/en>
and the **Connecting for Health** web pages.
<http://www.connectingforhealth.nhs.uk/crdb/>
- For local advice and information about National Programme progress and deployments in your area, contact your local PCT director of information or see the **Connecting for Health** regional cluster web pages.
<http://www.connectingforhealth.nhs.uk/regions>

Resource index

The following section lists some of the bodies and networks supporting new and existing social enterprises. They are listed alphabetically and not necessarily in order of relevance. The list is not exhaustive and further contacts will be added.

i. Bodies supporting social enterprise

Association of Chief Executives of Voluntary Organisations (ACEVO) is the professional body for third sector chief executives, with 2000 members. It connects, develops and represents the sector's leaders, helping to increase the impact and efficiency of social enterprise as a whole.

www.acevo.org.uk

Association of Social Entrepreneurs in Health is a membership association that helps set up and sustain social enterprise in health care. More information is at:

<http://www.publicinnovation.org.uk/?page=pdf/DMASEHsummary.pdf>

Business in the Community is an independent business-led organisation that aims to inspire, engage, support and challenge companies to continually improve the impact they have on society.

<http://www.bitc.org.uk>

Centre for Public Innovation is a social enterprise helping organisations working with disadvantaged people to transform their performance and get better outcomes.

www.publicinnovation.org.uk

Community Action Network (CAN) develops, promotes and supports social entrepreneurs. The CAN team and members deliver high-quality community projects in almost every field of social change and service delivery, including healthcare.

www.can-online.org.uk

Development Trusts Association promotes the work of development trusts and advocates on their behalf.

www.dta.org.uk

Employee Ownership Association aims to be the voice of co-owned businesses in the UK.

<http://www.employeeownership.co.uk/>

Employee Ownership Options provides information and signposting on how employee ownership can bring benefits to employees, business owners and trade unionists. It raises awareness of the business options available to small firms when they are threatened with closure.

www.employee-ownership.org.uk

Mutuo brings together the different wings of the mutual sector to promote a common message of success and to encourage mutual approaches to business and public policy.

www.mutuo.co.uk

National Council for Voluntary Organisations (NCVO) is the largest umbrella body for the voluntary and community sector in England. NCVO is a lobbying organisation and aims to be at the leading edge of research into the voluntary sector.

www.ncvo-vol.org.uk

Plunkett Foundation is an educational charity which supports economic self-help as an effective way of meeting the needs of rural communities. It enables rural communities to establish and run enterprises that provide essential services.

www.plunkett.co.uk/framesets/index_whoare.html

Schwab Foundation for Social Entrepreneurship provides a global platform to promote social entrepreneurship as a key way of improving societies and addressing social problems.

www.schwabfound.org

Social Enterprise Coalition is the UK's national body for social enterprise. It supports and represents the work of its members, influences national policy and promotes best practice.

www.socialenterprise.org.uk

Social Firms UK creates employment opportunities for disabled people. It represents the interests of the social firm sector, lobbies and shares information.

www.socialfirms.co.uk

UnLtd provides a complete package of finance and support to help social entrepreneurs start up and run projects that deliver social benefit.

www.unltd.org.uk

ii. General business support

Business Link is part of the service offered through Regional Development Agencies. It provides straightforward information and advice for small business, including social enterprises, gives access to a wide network of business support organisations and a directory of financial sources.

www.businesslink.gov.uk

Co-operatives UK is the central membership organisation for co-operative enterprise throughout the UK, promoting co-operative and mutual solutions, working in partnership with its members to build a stronger and increasingly successful co-operative movement.

www.cooperatives-uk.coop

iii. Public sector, health and social care support

Care Services Improvement Partnership (CSIP) supports positive changes in services and in the wellbeing of vulnerable people with health and social care needs.

www.csip.org.uk

iv. Programmes and networks

The Directory for Social Entrepreneurial Organisations provides a one-stop source of data about social entrepreneurs in England, and a place to trade information, insight, products and services.

www.seo-online.org.uk/html/home.asp

The Future Services Network is for organisations and individuals who want to see public services which are genuinely driven by citizens and consumers.

www.futureservicesnetwork.org

Nearbuyyou is a national trading network for social enterprises and those that wish to trade with them. All member services are free to social enterprises.

www.nearbuyyou.co.uk

NHS Networks promotes and connects the many networks which exist throughout the NHS.

www.networks.nhs.uk

Public Service Delivery Network is for those in the social economy with responsibility for negotiating and managing public service contracts. It develops capacity within the voluntary and community sector by providing a forum for peer support, developing and sharing resources, networking and professional development opportunities.

<http://www.ncvo-vol.org.uk/sfp/earning/?id=2390>

v. Skills and learning

Busynurse provides personal, professional and career development for nurses interested in setting up a social enterprise. The service is run by nurses who have already set up a social enterprise themselves.

www.busynurse.com

Centre for the Development of Healthcare Practice and Policy – University of Leeds

www.cdhpp.leeds.ac.uk

Health Services Management Centre – University of Birmingham

www.hsmc.bham.ac.uk

INSEAD – a social entrepreneurship programme.

<http://executive.education.insead.edu/social%2Dentrepreneurship/>

School for Social Entrepreneurs provides training and opportunities to help people use their creative and entrepreneurial abilities more fully for social benefit.

www.sse.org.uk

Skoll Centre for Social Entrepreneurship – Saïd Business School, University of Oxford.

www.sbs.ox.ac.uk/skoll/

Social Enterprise Training and Support is an information resource offering links to training and support providers, and specialist publications specifically about social enterprise.

www.setas.co.uk

vi. Equality and Human Rights

The Commission for Equality and Human Rights will bring together the work of the three existing commissions, the Commission for Racial Equality, Disability Rights Commission and Equal Opportunities Commission.

www.cehr.org.uk

vii. Government links

Charity and Third Sector Finance Unit is responsible for strategic policy development across the Treasury on third sector issues. The unit brings together all aspects of tax, spending and financial services policy. It works closely with the Cabinet Office and HM Revenue & Customs.

http://www.hm-treasury.gov.uk/documents/public_spending_and_services/third_sector/pss_thirdsector_index.cfm

Good Corporate Citizenship is a resource to help NHS organisations achieve a healthier local population and improved staff morale, as well as make big financial savings through using their corporate powers and resources to benefit, rather than damage social, economic and environmental conditions.

www.corporatecitizen.nhs.uk

NHS Institute for Innovation and Improvement supports the NHS with high-impact solutions to some of its biggest challenges. It develops and shares innovative ideas, new practices and technologies that aim to make a real difference to the delivery of health care and health outcomes.

www.institute.nhs.uk

NHS Purchasing and Supply Agency is a centre of expertise, knowledge and excellence in purchasing and supply matters for the NHS. It advises on policy and the strategic direction of procurement, and its impact on developing healthcare.

www.pasa.doh.gov.uk

Office of Government Commerce (OGC) works with public sector organisations to help them improve their efficiency, gain better value for money from their commercial activities, and deliver improved success from programmes and projects. It offers guidance on procurement from social economy organisations.

www.ogc.gov.uk

Office of the Third Sector (Cabinet Office) is set up to drive forward the Government's role in supporting a thriving sector, and to join up related work from across government.

http://www.cabinetoffice.gov.uk/third_sector/

Primary Care Contracting brings together information and resources, including a team of advisors, to help organisations implement the new primary care contracting arrangements.

<http://www.primarycarecontracting.nhs.uk/1.php>

Social Enterprise Unit (Department of Health) co-ordinates policy on social enterprise and ensures that a network of support is put in place to encourage the wider use of social enterprise models in health and social care. Email: social.enterprise@dh.gsi.gov.uk

Sustainable Development Commission is the Government's independent watchdog on sustainable development. Its activities on 'healthy futures' spreads sustainability good practice throughout the NHS.

www.sd-commission.org.uk/index.php

viii. Regional support

East of England

- East of England Development Agency www.eeda.org.uk
- Investing in Communities www.investingincommunities.org.uk
- Social Enterprise East of England www.socialenterprise-east.org.uk

East Midlands

- East Midlands Development Agency www.emda.org.uk/main
- Medilink East Midlands www.medilinkem.com/web/MEDILINK/index.cfm
- Social Enterprise East Midlands <http://www.seem.uk.net/>

London

- London Development Agency (health) www.lda.gov.uk/server/show/ConWebDoc.363
- London Development Agency (social enterprise) www.lda.gov.uk/server/show/ConWebDoc.774
- Social Enterprise London <http://www.sel.org.uk/>

North East

- North East Social Enterprise Partnership www.nesep.co.uk
- One NorthEast (health) www.onenortheast.co.uk/page/business/healthsector.cfm

North West

- Cheshire and Warrington Social Enterprise Partnership www.cwsocialenterprise.org.uk
- Cumbria Social Enterprise Partnership www.socialenterpriseincumbria.org
- Merseyside Social Enterprise Initiative www.msei.org.uk
- North West Development Agency (social enterprise) <http://www.nwda.co.uk/RelatedContent.aspx?&area=86&subarea=253>
- North West Development Agency (health) <http://www.nwda.co.uk/RelatedContent.aspx?&area=100&subarea=238>
- Social Enterprise Lancashire Network www.selnet-uk.com

- Social Enterprise Network – Merseyside and Halton www.sen.org.uk
- Third Sector Enterprises – Greater Manchester www.3se.co.uk

South East

- South East England Development Agency www.seeda.co.uk
- South East Social Enterprise Partnership www.sesep.org.uk

South West

- RISE – the voice for South West social enterprise www.rise-sw.co.uk
- South West of England Regional Development Agency www.southwestrda.org.uk

West Midlands

- Advantage West Midlands – social enterprise
<http://www.advantagewm.co.uk/social-enterprise.html>

Yorkshire and the Humber

- Social Enterprise Yorkshire and the Humber www.seyh.org.uk
- Yorkshire Forward – social enterprise
http://www.yorkshire-forward.com/www/view.asp?content_id=2157&parent_id=115



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Produced by COI for the Department of Health

278002 Feb 07