National Audit Office

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Department of Health

Establishing social enterprises under the Right to Request Programme

Summary

1 As part of its agenda for transforming community services, the Department of Health (the Department) has supported Primary Care Trust (PCT) staff joining together and leaving the NHS ('spinning out') to form social enterprises. These have become independent bodies delivering services, previously delivered in-house, under contract to the PCT. Seven 'Pathfinder' social enterprises were spun out before 2008. Another 20 have now spun out under the Right to Request Programme (the Programme), which supports staff to apply to form a social enterprise to supply services. A further 30 are in-line to be spun out by September 2011. In total, social enterprises formed from the Programme will be delivering around £0.9 billion of public services by the end of 2011. Examples of the services they provide are at **Figure 1**.

2 Social enterprises are businesses with primarily social objectives, the surpluses from which are principally reinvested for that purpose in the business or community rather than driven by the need to maximise profits for shareholders and owners. Ownership can take many forms including conventional ownership through equity shares, mutual ownership by its staff or as a cooperative. Spin-outs from PCTs are generally Community Interest Companies owned by their staff. They are limited companies, with special additional features, created for the use of people who want to conduct a business or other activity for community benefit, and not purely for private advantage.

Figure 1
Examples of services provided by spun out social enterprises

Organisation Name	Number of staff transferred	Service Description
City Health Care Partnership	1,200	Delivers a range of services, for example, dental and GP services, sexual health, health visiting and health care services, and prisoner and offender healthcare.
Your Healthcare	502	Community focused services including inpatient and outpatient support to all age groups.
Inclusion Healthcare	6	Provides general medical and substance misuse services for homeless people and other socially excluded groups.

Source: Relevant social enterprise

3 The Right to Request programme is part of the wider programme to transform community services, initiated in June 2008. The transforming community services programme sought, amongst other things, to improve quality by giving greater freedom to clinical staff working in community services to innovate and lead service transformation. It required that PCTs should no longer deliver services and should separate their delivery arm from their commissioning function with delivery being provided under contract to the PCT by other bodies such as social enterprises or Foundation Trusts. By providing an option to form social enterprises, the Right to Request Programme was intended to play a part in enabling the separation of PCT provider and commissioner functions, improving efficiency and adding to the diversity of providers delivering community health services. The Department also considered that having social enterprises provide services would also be a first step in stimulating a market for community services, leading to greater patient choice, increased quality and responsiveness to patients' needs.

4 Government policy is to support social enterprises and mutuals spinning out from parts of the public sector. In 2010-11, the Office for Civil Society launched a programme supporting the spinning out of 21 'Pathfinder Mutuals'. The Government also plans to establish 'Rights to Provide' across the public sector, so that employers will be expected to accept suitable proposals from front-line staff who want to take over and run their services as social enterprises and mutuals. Ministers announced a Right to Provide scheme for staff working anywhere in the NHS and care services in March 2011. The Mutuals Taskforce have an aspiration that by 2015 one in six public servants may have formed themselves into mutuals and social enterprises to deliver public services.

5 As well as being a major programme in its own right, the Right to Request Programme will provide useful lessons for future programmes more generally. Against this background, this Report examines:

- the support provided by the Department, as well as its objectives for the Right to Request programme;
- the arrangements put in place by PCTs to ensure the delivery of services by spun out social enterprises; and
- the risks relating to achieving sustained value for money from the Programme.

As few organisations have, so far, spun out, we have drawn from our previous reports that have highlighted the risks to value for money that have to be managed as the programme progresses.

6 In examining the Programme we conducted surveys of PCTs and social enterprises. The surveys had relatively low response rates, but we followed up the issues raised in case studies. We also made direct contact about particular issues where these were significant to our findings to ensure that the findings were soundly based.

Key findings

7 It is too early to see a consistent picture of the costs and benefits that spinning out might bring. To date, only 20 Right to Request social enterprises are operational, the majority having recently launched in April 2011, and any service delivery benefits will take several years to emerge. There are, however, a number of examples where increased staff engagement and awareness of local needs from social enterprises formed earlier have delivered cost and service improvements. For example, Sandwell Community Caring Trust has made substantial savings by reducing staff sickness absences from an average of 22 days per year in 1997 to 0.34 days in 2008. As regards the costs of the programme, there is no central record and it is difficult to get accurate estimates from PCTs as most are still part way through the spinning out process. A small number of trusts told us that their costs varied from between £120,000 to £500,000, but we have no assurance that these costs are typical. In addition to the costs of PCTs, the Social Enterprise Investment Fund provided over £7 million in grants and they were supported by the Department's central unit.

8 A strong support framework in the Department of Health has been successful in generating requests from staff to form social enterprises. Key features of the framework the Department put in place to support the Right to Request are a strong policy drive to create social enterprises, a central unit regulating the Right to Request process and giving guidance and advice, and the availability of funding to assist groups in formulating their plans and to support start-up. In common with other health providers, all Right to Request social enterprises were required to demonstrate quality and productivity improvements as part of the Department's QIPP (Quality, Improvement, Productivity and Prevention) challenge. They were contracted to deliver the same savings and service improvements as those bodies remaining in the NHS. PCTs were required to assure themselves of the financial viability and sustainability of all Right to Request proposals.

9 The Department has not formulated separate objectives against which to evaluate the success of its Right to Request programme. The Right to Request Programme is a sub-set of the wider programme 'Transforming Community Services' which has objectives around promoting patient choice, separating the commissioning and provider function, empowering staff to improve patient care and providing value for money to taxpayers. The Department did not set separate objectives for the Right to Request Programme but set out in an assurance framework the tests that proposals to form social enterprises would have to meet. The Department consider that Right to Request has contributed to meeting the objectives of the Transforming Community Services programme by facilitating the separation of the PCT provider and commissioner functions, adding diversity to the providers delivering community services, enabled the driving up of clinical standards by giving greater freedom to clinical staff to innovate and lead services, improving efficiency, developing responsive services and adding diversity to the providers delivering community services. However, we found that there is currently very little hard evidence of the benefits social enterprises are delivering because they have not had time to demonstrate a track record. The Department needs to establish a framework that will enable it to evaluate the contribution that the Right to Request Programme has made.

Without separate objectives specifically attributable to Right to Request, a measurable articulation of the costs to be incurred or the benefits to be achieved, it is difficult to assess the success, or otherwise of the Programme and whether the resources devoted to the Programme are value for money.

10 PCTs approved proposals for spinning out social enterprises where enterprises promised more benefits than the alternatives but did not generally contract for them to deliver these additional benefits. PCTs evaluated staff proposals to create a social enterprise with other options such as transferring service delivery functions to Foundation Trusts or other parts of the NHS. As a minimum, social enterprises were expected to deliver the same level of savings and service improvements that parts of the NHS and other providers were required to deliver. PCTs, however, approved the spinning out of social enterprises when they considered that, compared to the alternatives, the proposed social enterprise offered the greatest benefits across a range of tests on quality, efficiency and sustainability. But, in practice, PCT commissioners did not contract social enterprises to deliver cost or service benefits beyond what the alternatives would have offered. There is a risk that if cost savings and benefits achievable through separating the commissioning function, whether the provider is a social enterprise or an alternative, are not enshrined in contracts, they will not be delivered.

11 The PCTs have retained a number of risks and liabilities that will need to be managed carefully. They include a number of risks and potential liabilities relating to the ownership of capital assets and continued cover against clinical negligence claims. And in the last resort, the PCT or its successors will be responsible for ensuring that essential services continue to be provided. At least for a time, social enterprises and other community providers are highly dependent on work and cash flow from their respective PCTs. They will also be operating in an increasingly competitive market place due to changes in health legislation, currently going through Parliament. This legislation may introduce the idea of 'any qualified provider' relatively early in the lives of the final wave of Right to Request spin-outs and before they become fully self sufficient.

12 PCTs or their successors will need to have a clear idea of how they will react if enterprises run into financial difficulty or fail. In common with other independent health providers, there is a risk that social enterprises might fail. Before agreeing to launch social enterprises PCTs assured themselves that the enterprises were viable businesses in the short and medium term. In the longer term, as contracts with PCTs become subject to competition, there is a risk that some enterprises will struggle to become self sustaining businesses, for example, being able to attract finance, to react to and withstand variations in demand and to compete in the market place. Whilst some social enterprises, such as Ripplez, have secured additional contracts, some pre-Right to Request spin-outs have been over-optimistic about the amount of extra work they will win in competition. The Department's plan is for competition to take its course. Against this background, there has been no assessment of what the failure rate of enterprises will be, how this will impact on the value for money case for the Right to Request programme, or on the case for encouraging employees to take on the risk of the enterprise failing at a time when the Department has not yet settled commissioning and competition arrangements.

13 Getting sustained value for money from social enterprises will be dependent on how PCTs or their successors commission services in the future. Given the high degree of interdependency between social enterprises, PCTs and their successors, much will depend on how commissioners approach the commissioning of services from these businesses. Success will require highly developed commercial skills, for example, in how to manage the market so as to stimulate competition or encourage new providers, and how to set the tariff that providers will receive.

Conclusion on Value for Money

14 It is too early to assess the costs and benefits from the Programme as only 20 social enterprises are operational, and have not yet established a track record. The majority have only recently launched in April 2011. Nevertheless, there are a number of risks to be managed if value for money is to be achieved for the sums expended on the programme and for the £900 million contracts awarded to the enterprises non-competitively. Not setting separate objectives for the Programme makes it difficult to judge whether success and value for money is achieved. PCTs have not contracted for any benefits that social enterprises could deliver over and above what they would have required of alternatives, reducing the likelihood that such benefits will be delivered. Many risks and liabilities still reside with PCTs and will need to be managed if value for money is to be achieved. The sustainability of social enterprises is, currently, heavily dependent upon funding and cash flow from the NHS.

Recommendations

To the Department of Health and PCTs

a **The Department has not set out separate, measurable objectives against which to evaluate the success of the Right to Request Programme.** The Department should put in place arrangements that enable it to evaluate whether the Programme is value for money or not, including specifying what it expects the costs and benefits of the Programme to be and what the actual cost and benefits are.

b **PCTs have not generally specified in initial contracts all the benefits that social enterprises are expected to deliver.** The Department and PCTs should monitor the extent to which social enterprises are able to deliver cost savings and benefits over and above the services they have contracted for and above those provided by other delivery models. They should also identify to whom these benefits are accruing.

c **PCTs have retained a number of risks and potential liabilities.** PCTs should clearly identify all risks and potential liabilities associated with individual approved proposals within the Right to Request Programme, and put in place arrangements to monitor and manage them.

d **There is a risk that some enterprises will struggle to survive when the contracts they have with PCTs are put out to competition.** The PCTs or their successors should have contingency plans on how to react in these circumstances, and should evaluate any action they take carefully to ensure that they do not infringe competition and State Aid rules.

To the Cabinet Office

e **The setting up of new mutuals created by moving out from the public sector is at an early stage.** The Cabinet Office should ensure frameworks are in place so that new and emerging mutuals and public sector commissioners have access to appropriate information and support. This should include access to information and advice on adopting good financial practices such as: having clear objectives; ensuring that the means for evaluating success are established at the outset; and ensuring that cost or service improvements are secured.