"What influences social entrepreneurs to adopt particular social enterprise structures and why?"

Julius C. Odor

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I hereby declare that:

1. I have been enrolled for another award of the University, or other academic or professional organisation, whilst undertaking my research degree. I was an enrolled student for the following award:

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Name	*Julius Cameron Odor*
Date	*March 2019*
Award	*DBA*
Faculty	*Sheffield Business School*
Director(s) of Studies	*Professor Rory Ridley-Duff*

Abstract

Despite the founders of social enterprises being faced with a proliferation of structural forms to pursue their interests, social enterprise is often portrayed as a homogenous organisational category. This domain is increasingly rendered a governable terrain (Nickel & Eikenberry, 2016) through the development of Kitemarks, funder/investor requirements and government policy initiatives which shape and control what it means to be a 'good' social enterprise. Such mechanisms have been shown to strengthen institutional coherence and drive structural isomorphism (i.e. Similarity) (DiMaggio & Powell, 1983; Boxenbaum, & Jonsson, 2017). As yet, however, scant attention has been given to the ways in which Kitemarks, standards and funding criteria serve to prioritise and marginalise particular forms of social enterprise by bestowing or denying access to material (e.g. financial) and symbolic (e.g. legitimacy) resources. Further, the implications of such disciplining affects and how individual entrepreneurs respond to them has likewise received little attention from scholars.

This thesis seeks to explicate this issue, positioning Kitemarks, standards and funding criteria as political artefacts that serve to discipline the structure choices of social entrepreneurs through prescribing desirable characteristics, behaviours and structures for social enterprises. This prescription becomes problematic in situations when adherence to such prescriptions is at odds with social entrepreneur's own constructions of legitimate organising principles, which are perceived by them to be as socially and materially efficacious but prevent access to physical and symbolic resources.

The qualitative data set for this thesis comprises fifteen in-depth interviews with social entrepreneurs and their advisors regarding structure choice. The analysis presented offers new insights into the dynamics of structure choice by social entrepreneurs, including the potential nodes of conflict between exogenous prescriptions and social entrepreneur's own orientation to certain aspects of organisation and what social entrepreneurs actually do in the face of such conflict. I find that conflict is particularly prevalent in respect of ownership and decision-making. In order to resolve the tensions that they experience, social

entrepreneurs often 'decouple' their governance and/or organising practices from those prescribed in external standards or begin to create new structures and ways of organising on the margins of the social enterprise domain through a process of institutional entrepreneurship (Battilana, Leca, & Boxenbaum, 2009).

This thesis places such structures within an extended structural typology, extending the work of Bull (2015, 2018), and culminates in the development of a practice model for social enterprise structure selection.

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List of Abbreviations

Annual General Meeting (AGM)

Charitable Incorporated Organisation (CIO)

Chief Executive Officer (CEO)

Community Benefit Society (CBS)

Community Interest Company (CIC)

Company Limited by Guarantee (CLG)

Company Limited by Shares (CLS)

Computer Assisted Qualitative Data Analysis Software (CAQDAS)

Corporate social responsibility (CSR)

Doctor of Business Administration (DBA)

Doctor of Philosophy (PhD)

Emergence de l'Entreprise Sociale en Europe (EMES)

Finnish Social Enterprise Mark (F-SEM)

Global Entrepreneurship Monitor (GEM)

Her Majesty's Revenue and Customs (HMRC)

Higher Education Funding Council for England (HEFCE)

Higher Education Institution (HEI)

Industrial and Provident Society (IPS)

International Society for Third Sector Research (ISTR)

Limited Liability Partnership (LLP)

National Council for Voluntary Organisations (NCVO)

National Health Service (NHS)

Primary Care Trust (PCT)

Small, to Medium Enterprise (SME)

Social Enterprise Limited Liability Partnership (SELLP)

Social Enterprise Mark (SEM)

Social Enterprise UK (SEUK)

Social Investment Tax Relief (SITR)

Social Return on Investment (SROI)

United Kingdom (UK)

United States of America (USA)

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Chapter 1 - Introduction

1.1 Introduction

The primary purpose of this thesis is to contribute to the understanding of how social entrepreneurs select the structure(s) for the enterprise(s) that they create. This thesis takes into account the current academic and practitioner literature and presents both an extension to Bull's (2015, 2018) structural typology of social enterprises alongside a new practice model for the selection of social enterprise structures.

This chapter examines the importance of the research context, presents the background in which social entrepreneurs select structures for their enterprises, and explains the objectives and structure of the thesis.

1.2 Research context.

Social enterprises are competitive and co-operative businesses, trading with a social purpose that can be said to have the following characteristics; "an enterprise orientation, so are involved in producing goods or providing services to a market and seek to be viable trading concerns. Social enterprises have explicit social or environmental aims and they are autonomous organisations with governance and ownership structures that are often based on participation by stakeholder groups where profits may be distributed as profit-sharing to stakeholders or used for the benefit of the community" (Social Enterprise London, 2001, p2).

The origins of the social enterprise movement can be traced back to groups like the Rochdale Society of Equitable Pioneers formed in 1844 to combat the unethical practices of mill owners in the UK (See Fairbairn, 1994; Van Opstal, 2010). Beginning in the mid 1990's the social enterprise movement began to grow in importance with a number of different types of organisations, including trading charities, co-operatives, community enterprises, and other forms of social businesses coming together with a common aim of using enterprise as a

vehicle for social change (Leadbeater, 1997; Spreckley, 1981, 2000, 2011, 2015; Pearce & Kay, 2003). This movement continues to grow in both economic and social importance with most recent data suggesting that there are an estimated 471,000 SME (small to medium enterprise) social enterprises in the UK. Furthermore, these social enterprises employ 1.44 million people (Gov.UK, 2017a) with the sector as a whole contributing approximately £24 billion to the UK economy (Social Enterprise UK, 2017b). However, Ridley-Duff & Bull (2019) now estimate this figure to be £70.6 billion or £100 billion if co-operatives are included, with a broader social economy of £245 billion.

Various governments have seen social enterprise as offering a unique combination of socially orientated, flexible and innovative solutions to the delivery of public services such as health care (Sepulveda, Lyon, & Vickers, 2018). The growth of the prominence of social enterprises in the delivery of public services in recent times has in part been driven by challenges to the public finances (See also Pearce & Kay, 2003) but also by government legislation in the form of The Public Services (Social Value) Act 2012 (Social Enterprise UK, 2012; Gov.UK, 2012a). The act requires commissioners of public services 'explicitly evaluate' as well as have 'due regard' for the creation of social value (Gov.UK, 2012a) therefore strengthening the position of social enterprises in this part of the economy.

The growing prominence of social enterprise over the last thirty years in both the economic and social landscapes (Ridley-Duff & Bull, 2011, 2015; Social Enterprise UK, 2017b; Gov.UK, 2017a) would suggest that this is an important area of study and one in which further research may make a substantial contribution to academic understanding and the professional practice of social entrepreneurs (Dees, 1998; Defourny & Nyssens, 2010, 2017a, 2017b; Nicholls, 2006).

1.3 Background to social enterprise legal structures selection.

The selection of appropriate structures for social enterprises has received relatively little attention from scholars save from a few that have sought to address structure selection either directly (Cox, 2006, 2012), or in relation to;

typology (Bull, 2015, 2018), governance (Spear, Cornforth, & Aiken, 2007, 2009) new forms of social enterprise (Ridley-Duff, 2015) or the role of standards (Ridley-Duff & Southcombe, 2012). However, there has been much practitioner and government debate over the past ten to fifteen years (Bates, Wells, Braithwaite, Social Enterprise London, 2003; Cox, 2012; Department for Business, Innovation and Skills, 2011; DLA Piper & UNLtd, 2014; Frail & Pedwell, 2003; Giotis, 2010; Guardian, 2011; Morrison Foerster & Trust Law, 2012; Social Enterprise UK, 2017a; Wrigleys Solicitors, 2014;) as social enterprises have sought to protect both their assets for social purpose whilst trading effectively in often highly competitive environments. This thesis argues that structure choice holds wide-ranging and profound implications for investment/funding options and trading opportunities as well as the protection of social purpose and/or assets (Spear et al., 2007, 2009; Giotis, 2010; Guardian, 2011). Both of these factors are important in respect of the financial health and growth of social enterprises alongside the generation of social capital, therefore taken together represent a significant issue within the social enterprise discourse that is worthy of study.

Doug Richards (chair of the Conservative Party, Small business taskforce), at the launch of 'Entrepreneurs manifesto and declaration of rights' in 2010, usefully summed up the dilemma that social entrepreneurs face with regard to structure selection; "social enterprises must make a Hobson's choice early on and they live with the consequences of structures that do not accommodate growth or a change in approach to securing capital" (Giotis, 2010, page 1). Following this, the debate continued, in January 2011 with the Guardian Newspaper hosting a live debate on social enterprise legal structures (Guardian, 2011) during which it was suggested, whilst citing unpublished research for the Social Enterprise Coalition, that more than 50% of all social enterprises were dissatisfied with their current structure.

The debate surrounding issues of legal structure developed further in 2014 with the Government's Autumn Statement in which it was announced that it was extending the social investment tax relief scheme (SITR) (Gov.UK, 2017b) with effect from 2015. This allowed investors making investments into 'social enterprises' to claim a 30% income tax relief. However, the definition of social

enterprise applied related directly to legal structure as the investee organisation had to be a Community Interest Company (CIC), a charity or a Community Benefit Society (CBS), therefore excluding social enterprises limited by shares and co-operatives that are not for community benefit. The key issue surrounding the exclusion of these social enterprises centred on the absence of an "asset lock" in their legal structure. Small amendments were made to the scheme in 2018, but the exclusion of the aforementioned structures remains and serves to hinder the growth of non-asset locked social enterprises.

1.4 Research purpose

At the present time there remains no definition in law of a social enterprise in the UK excepting for the purposes a small number of government programmes (Morgan, 2013), therefore the social entrepreneur has a significant number of potential options in respect of structure. As social enterprises cannot be defined by their legal status they can only be characterised by the nature of what they do and how they do it, such that this is embedded in the forms of social ownership and governance that they adopt alongside the way they utilise the profits they generate through their trading activities (Bates, Wells, & Braithwaite, Social Enterprise London, 2003; Frail & Pedwell, 2003). Therefore, choices regarding the structure of social enterprises are contingent upon a mix of factors including the enterprise's social purpose, the stakeholders involved, the scale on which it will operate and the way it will be financed as well as how it creates additional social value using its surplus (Bates, Wells, Braithwaite & Social Enterprise London, 2003; Cox, 2006).

Social entrepreneurs are faced with a plethora of choices regarding the structure for their social enterprise(s) as an investigation of the currently available structure options, alongside the related literature and practitioner decision support material, uncovers a complex mix of seven different types of possible legal structure together with other variants of those types (Morgan, 2013; Cox, 2006). Further, the support organisation the School for Social Entrepreneurs (2018) suggests that there are twelve common structures available to social entrepreneurs.

Despite the founders of social enterprises being faced with a plurality of structural forms to pursue their interests, I argue that social enterprise is most often portrayed as a homogenous organisational category that I refer to as the 'social enterprise category' and that is increasingly being governed (Nickel & Eikenberry, 2016) through the development of Kitemarks, funder/investor requirements and government policy initiatives that act to shape and control what it means to be a 'good' social enterprise. Such mechanisms have been shown to strengthen institutional coherence and drive structural isomorphism (i.e. Similarity) (DiMaggio & Powell, 1983; Boxenbaum & Jonsson, 2017). As yet, however, scant attention has been given to the ways in which these Kitemarks, standards and funding criteria serve to prioritise and marginalise particular forms of social enterprise by bestowing or denying access to material (e.g., financial) and symbolic (e.g., legitimacy) resources and the implications of such disciplinary affects or how individual social entrepreneurs respond.

The research question selected for this thesis is, therefore, "What influences social entrepreneurs to adopt particular social enterprise structures and why?".

1.5 Research contributions.

I extend the current understanding of social enterprise structure selection in three ways. Firstly, by highlighting the disciplining effects of Kitemarks, standards and funding criteria on the structure choices of social entrepreneurs. In doing so, I explain how these serve to prioritise and marginalise particular forms of social enterprise by bestowing or denying access to material and symbolic resources. Secondly, by examining the implications of such disciplining affects and how individual entrepreneurs respond to them, I explain how new forms of social enterprise emerge. Finally by presenting a practice model for the selection of structures for social enterprises that departs from the current linear rational models and does not serve to promote a particular category of social enterprise or related structure over another. Here instead, I illuminate the important components that need to be developed in the selection of that structure alongside the ordering of those components. Further, it is hoped that this thesis may help to stimulate some degree of institutional entrepreneurship (Battilana, et al., 2009) in the development of new structures that more adequately address the tensions

between the organising orientations of social entrepreneurs and the structures that are currently prioritised or marginalised by external factors.

1.6 Methodological overview

In respect of the nascent theoretical understanding of the complex and nuanced nature of social enterprise structure selection, a qualitative approach and an inductive strategy have been adopted. This strategy follows the systematic procedure presented by Thomas's (2006) general inductive approach for analysing qualitative evaluation data. The data for this thesis was collected using a face to face interview instrument applied to the cases of fifteen social entrepreneurs and their advisers. The data collected was then subjected to a thematic analysis (Langdridge & Hagger-Johnson, 2009); Braun and Clarke, 2006; Fugard and Potts, 2015) using the Nvivo software package in order to develop themes and clusters of themes from fragments of coded text. The interplay between coded text, themes and clusters of themes in relation to the research question continued through several iterations of review and decision on what was more or less important in the data. From this iterative interplay, the theoretical building blocks for a new model for social enterprise structure selection were developed.

1.7 Structure of the thesis

This thesis includes six chapters. Following this introductory chapter, chapter two presents a critical review of literature related to social enterprise structure selection, placing this in the context of institutional theory. The key concepts addressed relate to issues surrounding definitions of social enterprise, the nature of the social entrepreneur, the implications for organising, the institutional logics, kite-marks, legal structures, advice (business & governance) and funding for social enterprise activity.

Chapter three is concerned with the research approach used and the research design. The qualitative research approach is discussed as are the method (interview technique), the data collection process and sampling technique and

the data analysis approach (General Analytic Induction). Alongside this, the ethical considerations and limitations related to my research are considered.

Chapter four presents the findings of my research including the complex interplay between the internalised influences on structure selection and those influences originating within the external social enterprise context. In exploring these influences, the associated tensions faced by practitioners in selecting an appropriate structure are highlighted alongside the actions that are taken by social entrepreneurs in resolving those tensions.

Chapter Five presents a discussion of three interrelated themes. First, the construction and categorisation of social enterprises. Second, the tensions between the social enterprise category and the organising orientations of social entrepreneurs. Third, how social entrepreneurs respond in the face of conflict with the institutional logics of the social enterprise category.

Chapter six provides a comprehensive conclusion to the thesis. This chapter reviews the key findings, presents the contribution I make to knowledge and practice, including a practice model for the selection of social enterprise structure. In terms of the potential limitations of this research; the location of the participants in the North of England it could be argued, present a particular socially or politically located view of social enterprise activity. However, I argue that many of the participants had been engaged in social enterprise or advice activity in other parts of the United Kingdom and overseas so have provided a balanced account of social enterprise structure selection in the UK. The conclusion of this thesis suggests that there are a number of important issues concerning the availability, quality and nature of advice available to social entrepreneurs as they begin to develop appropriate business models and governance arrangements that would benefit from further in-depth research.

Chapter 2 - Literature review

Introduction

This chapter reviews the literature surrounding the logics of social enterprise activity and the influences upon that activity. Leading from this review is an exploration of the gap represented by the dynamic intersection of these two types of influence in terms of the implications for the structure choices of social entrepreneurs in advance of reporting the empirical findings of this study in the later chapters of this thesis.

The extant research to date has explored the macro-level issues concerning social enterprise activity such as; the relationship with government policy (Carter & Jones Evans, 2006; Henderson, Reilly, Moyes, & Whittam, 2018; Pearce & Kay, 2003;; Ridley-Duff & Bull, 2015) the development of kite-marks (Ridley-Duff & Southcombe, 2012), legal identities (Bull, 2015, 2018), the provision of advice (Spear et al., 2007; European Commission, 2015; British Council, 2016) alongside concerns for access to funding and grants (Macmillan, 2007; Nicholls, 2010; European Commission, 2015; Cabinet Office, 2016; Davies, Haugh, & Chambers, 2017; Steiner & Teasdale, 2017).

In contrast to this interest in macro-level issues a parallel part of the social enterprise discourse has focused upon examining the micro level influences upon social enterprise activity in relation to the nature of social entrepreneurs (Leadbeater, 1997; Martin & Osberg, 2007; Galle, 2010; Arribas, Hernández, Urbano, & Vila, 2012; Ernst, 2012; Smith, Bell, & Watts, 2014), and their orientations towards organising in relation to the institutional logics (Fitzgerald & Shepherd, 2018; Pache & Santos, 2013a; Sullivan Mort, Weerawardena, & Carnegie, 2003) that they adopt and that in turn shape their decisions.

However, little has been written about the dynamic intersection between these two types of influence and the purpose of this chapter is therefore to map the interplay between the macro-structures or logics that shape and condition social enterprise activity and the micro-level orientations of social entrepreneurs in advance of reporting the empirical findings of this study.

2.1 The logics of social enterprise

Categories (Glynn & Navis, 2013) can be regarded as useful social constructions that provide a flexible conceptual framework that can be modelled and remodelled in relation to the changing economic and social realities that are encountered by organisations (Mervis & Rosch, 1981). In addition to being shaped by economic and social realities, categories are shaped by the purpose being pursued (Zuckerman, 1999), as in this case by the social and economic activity of social enterprises. Underlying these categories are a number of competing organising logics or shared systems of meaning and understanding that underpin the category and also act to confer legitimacy upon particular logics that manifest as social or economic goals and operating practices (Ocasio, Thornton, & Lounsbury, 2017). Institutional logics relate to the institutionalised organising principles that underpin how organisations work (Friedland & Alford, 1991) and that are in themselves organisational reflections of the logics of the social systems that those organisations inhabit. Institutional logics provide a useful vehicle with which to view the organising principles of organisations and how they work (Thornton & Ocasio, 2008; Greenwood, Raynard, Kodeih, Micelotta, & Lounsbury, 2011) as these logics help to illuminate organisational characteristics such as structure, ownership, and identity that in turn often influence the organisational decisions and responses (Greenwood et al., 2011) of social entrepreneurs.

In relation to the categorisation of social enterprise activity the academic discourse and government policy documents make significant reference to a location or classification in the 'third sector' or 'system' of the economy concerned with the 'social economy' (Cabinet Office, 2018). In classifying social enterprise activity in this way Pearce & Kay (2003) usefully present us with three systems of the economy; the first system characterised by private, market-driven, profit orientation, the second system characterised by public service, planned provision, non-trading orientation and the third system characterised by self-help, mutual organisation and social purpose orientation. The logical location of social enterprise activity between the first system (mainstream economic entrepreneurship) and the third system or social economy alongside voluntary organisations and charities but close to the first

system (Pearce & Kay, 2003) would support the notion that both market (economic value) and social (social value) logics (Fitzgerald, & Shepherd, 2018) are important.

In relation to social logics, Harding (2006) writing for the Global Entrepreneurship Monitor (GEM) UK Social Enterprise Report provides a composite definition of social enterprise activity building on the writings of Dees (1998) and Boschee & McClurg, (2003) that reflects the part that social entrepreneurs play as change agents in addressing pressing societal problems (see also Leadbeater, 1997), that they innovate to create social value and are accountable to the constituencies that they serve. At the same time, however, and in relation to market logics Harding (2007) provides a later, wide ranging and comprehensive definition that encompasses the use of profits; "social entrepreneurship is any attempt at new social enterprise activity or new enterprise creation, such as self-employment, a new enterprise, or the expansion of an existing social enterprise by an individual, team of individuals or established social enterprise, with social or community goals as its base and where the profit is invested in the activity or venture itself rather than returned to investors" (Harding, 2007, p. 74). Bringing together both market and social logics the European Commission locates social enterprise activity at the centre of social (explicit and primary social aim) and market (continuous economic activity) logics (European Commission, 2015). The positioning of market and social logics in this way clearly foreshadows the hybrid nature of social enterprises and points to a blurring and potential tension between the two logics

In examining the multiple logics of social enterprise activity the entrepreneurship discourse continues to primarily distinguish mainstream entrepreneurship from social entrepreneurship by the intended outcome or financial goals over and above any social or environmental motivation. This is variously described as the 'for profit' or 'not for profit' debate. Taking this financial goals approach and the notion of profit or not for profit we are presented with a spectrum upon which we can place social entrepreneurship (Dees & Elias, 1998; Carter & Jones Evans, 2006). Carter and Jones Evans (2006) provide the following illustration of the social end of our entrepreneurship spectrum with 'voluntary activism' associated with social logics at the purely social end of the scale and 'corporate

social innovation' associated with market logics at the economic end of the scale.

The Carter & Jones Evans social enterprise spectrum

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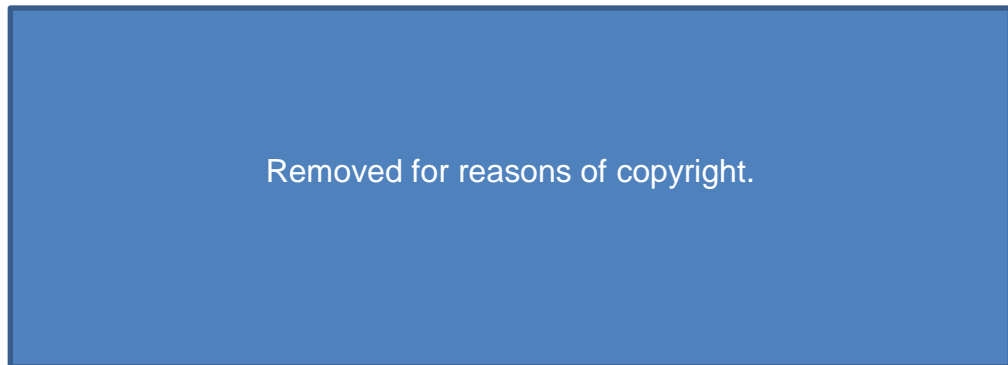
Carter and Jones Evans (2006)

Firstly considering not for profit activity where the social mission that is embodied by a social logic is most explicit as 'mission-related impact' is presented as the central and driving force (Dees, 2007). Meanwhile at the other end of the Carter and Jones Evans (2006) spectrum is placed what is described as mainstream entrepreneurial activity characterised, mainly, if not solely by market logics. Between these two poles, we have a somewhat more central position that attempts to balance social and market logics with the wealth creating activities of the enterprise being used to reinvest in the desired social outcomes.

Following and developing this line, Neck, Brush, & Allen (2009) provide us with a typology in which the differentiating factor is the intended mission and provide the following illustration in order to place social entrepreneurship within a more complex spectrum of entrepreneurial activity with the 'Hybrid' enterprise at its centre. The spectrum of logics is expressed as four quadrants; social purpose (social problem solving, for profit, economic impact); traditional (economic mission and economic impact, with measurement being primarily economic); social consequence (similar to traditional enterprises but with social outcomes, however, these are expressed as an outcome of doing business, and not as the primary purpose); enterprising non-profits (earned income whilst applying the general principles of entrepreneurship).

The Neck, Brush, & Allen social enterprise typology.

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Neck et al. (2009).

This rather neat two by two matrix provides a useful typology and positioning tool, however it is argued that social entrepreneurs and their enterprises do not fit neatly into groups one to four and often times actually tend to occupy the middle ground with 'Hybrids', exhibiting characteristics (logics) of more than one domain (Neck et al., 2009). Citing the social enterprise findings from Global Entrepreneurship Monitor Survey of the US, Timmons & Spinelli (2009) argue that there are many, many more organisations found in this hybrid category of organising than that of social ventures and enterprising non-profits combined together. Further, it is argued that often times, social entrepreneurs do not recognise what they are doing as social enterprise activity and actually undertake multiple or mixed types of social, economic and hybrid entrepreneurial activity concurrently (Lepoutre, Justo, Terjesen, & Bosma, 2013).

The institutional logics associated with each of these types of social enterprise activity are recognisable "socially constructed, historical patterns of material practices, assumptions, values, beliefs and rules" that shape organisational choices and responses including structure selection (Thornton & Ocasio, 1999, p. 804) both consciously and unconsciously (Greenwood et al., 2011). Institutional logics can shape the actions of social entrepreneurs in that they

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provide meanings for action (Vurro, Dacin, & Perrini, 2010) and therefore provide a source of legitimacy (Suchman, 1995). Legitimacy is important in terms of social enterprise activity as this not only concerns how audiences respond to the enterprise but also how they understand it; such that some forms of social enterprise structure may not only be seen "as more worthy, but also as more meaningful, more predictable, and more trustworthy (Suchman, 1995, page 575) by customers, advisers, funders and investors. In the case of social enterprise structure selection, legitimacy relates to both external structural legitimacy and an internal evaluation of legitimacy by social entrepreneurs. First, through the pursuit of a structure that might convey organisational legitimacy as the organising logics are conveyed at a macro-level (Suchman, 1995) to the stakeholders of the enterprise. Second, as social entrepreneurs seek to project their own micro level evaluation of legitimacy to the macro-level through adoption of rhetorical legitimation strategies (Bitektine & Haack, 2015) in order to support their chosen organising logics.

Institutional logics further influence the actions of social entrepreneurs through the content of dominant institutional logic or more formalised institutionalised template for organising (Battilana, et al., 2009) of social enterprise activity and the variety of different logics competing within that field (institutional coherence) both of which can be seen to be important in shaping the actions of social entrepreneurs and in constraining them (Reay & Hinings, 2009). Scholars have suggested that tension and conflict arises when groups either within or outside of the organisation support different logics and compete over which should be adopted (Battilana & Dorado, 2010; Pache & Santos, 2013b). However, social entrepreneurs may accept different logics (market, social or hybrid) if they perceive that the need for the enterprise will be supported by key stakeholders (Fitzgerald & Shepherd, 2018) or depending on their level of association with the logics, they may potentially ignore, reject, comply, combine, or compartmentalise them (Pache & Santos, 2013a). In complying, social entrepreneurs may engage in tactical (Dey & Teasdale, 2016) or strategic (Trexler, 2008) mimicry in pursuit of material (financial) and symbolic (legitimacy) resources.

Social and ethical values, beliefs, and practices typify the social logics of social enterprise activity and often include; strong stakeholder involvement, democratic governance, shared commitment to a social mission and acting ethically (Spreckley, 1981, 2000, 2011, 2015) so as to provide legitimacy. Equally, however, competitive market orientation and profit maximisation typify market logics where competitive positioning, therefore, becomes the primary source of legitimacy for an enterprise (Thornton & Ocasio, 1999). Authors (Fitzgerald & Shepherd, 2018) suggest that by trying to combine both social logics alongside market logics social entrepreneurs endeavour to achieve a delicate balance between for-profit (market logic) and not for profit (social logic) behaviours that often lead to conflict between competing demands (Pache & Santos, 2013a; Besharov & Smith, 2014). These tensions often reach a point of forced resolution in the selection of structure as dilemmas concerning the distribution of profits or their investment in the social mission become important alongside the sharing or retention of decision making (Pache & Santos, 2013b). This presents an interesting paradox insomuch that if social value is created by giving members the power to distribute profits, but they decide (democratically) to distribute them in ways which others deem to be 'private' (mutual) rather than 'social' (philanthropic), there is a conflict between two different perspectives on value creation.

A review of the legal literature reveals that for social enterprises unlike other types of enterprise, there are a far greater number of available structures alongside many variants that might be considered. The available choices of incorporated legal form currently include; the private company, the Community Interest Company (CIC), the Charitable Incorporated Organisation (CIO), Co-operative Society, the Community Benefit Society (CBS) and the Limited Liability Partnership (LLP) (See also Bates, Wells & Braithwaite & Social Enterprise London, 2003; Morrison Foerster & Trust Law, 2012; Social; Social Enterprise UK, 2017a). However, despite social enterprises being faced with a plurality of structural forms to pursue their interests, social enterprise is most often portrayed in government policy documents as a homogenous organisational category such that this serves to strengthen institutional coherence and drive structural isomorphism (i.e. similarity) (DiMaggio & Powell,

1983; Boxenbaum & Jonsson, 2017) disciplining what it means to be a 'good', legitimate social enterprise.

In sum, there is considerable competition over which 'social' logics should inform questions of legitimacy including those (Bull, 2015, 2018; Defourny & Nyssens, 2014, 2017a; Ridley-Duff, 2015) that argue for a range of social logics to be recognised and legitimised so long as they fall within a broad 'for-purpose' logic of social enterprise of all types.

The work of scholars associated with the EMES network in Europe (Defourny & Nyssens, 2006, 2010, 2014, 2017a, 2017b) and the UK (Nicholls, 2006; Bull, 2015, 2018; Bull & Ridley-Duff, 2018;) are most helpful in beginning to frame a discourse that goes beyond the dichotomy of 'social' vs 'market' logics. Defourny & Nyssens (2006, 2014, 2017a, 2017b) position four types of social enterprise based on core interests (general, mutual and capital interest) or social, mutual and market logic alongside positioning their sustainability in terms of a spectrum of non-market to market income, with social enterprises presented as; the Social Business model, the Social Cooperative model, the Entrepreneurial Non-Profit model and the Public Sector (social) Enterprise. This framing of social enterprise by EMES scholars presents an inclusive mix of both social and economic logics that include considerations for the nature of the social mission or social aims, the type of economic model and the governance structure as it is argued that they serve to inform the plurality of social enterprise structures. More importantly, the authors conclude that these three key dimensions are heavily interdependent insomuch that the type of social mission is likely to shape both the type of business model and organising arrangements adopted. Therefore, the economic model is likely to influence the way in which the social mission is pursued/developed and the primacy of the social mission may be better ensured by certain forms of organising (Defourny & Nyssens, 2017a).

Examining the current theoretical frameworks, Bull (2015, 2018) identifies a patchwork of conceptual lenses through which social enterprise can be viewed and that share commonalities in their hybridity. However, he argues that these conceptualisations do not recognise the breadth of organisational types nor

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engage with the inherent differences in the enterprises presented as social enterprises. In response, Bull (2018) presents a model in which an outer triangle represents what he argues to be the consensus of four general principles of social enterprise; trading in goods and services, primarily for social value, the creation and development of social/ethical capital and the pursuit of economic sustainability. In support of these principles, it is widely accepted that social enterprises engage in the trading of goods and services (Dees, 1998; European Commission, 2015; Harding, 2007; Nicholls, 2006). Secondly, as presented by EMES scholars and the European Commission, social enterprises are viable (Defourny & Nyssens, 2006, 2014, 2017a, 2017b) and engaged in continuous economic activity (European Commission, 2015) suggesting that they strive for 'social and economic sustainability'. Thirdly, it is argued (Bull, 2018) that despite the multiplicity of organising logics underpinning social enterprises (Fitzgerald, & Shepherd, 2018) the fundamental purpose of social enterprises is primarily for 'social value' (Defourny & Nyssens, 2010; Pearce & Kay, 2003; Spreckley, 1981, 2000, 2011, 2015). Finally, it is argued that social enterprises are values led organisations that are driven to create social and ethical capital (Ridley-Duff & Bull, 2015).

In meeting these four general principles, Bull (2018) argues that an organisation can be defined as a social enterprise. However, the author goes on to present three inner triangles that integrate their organisational antecedents; charitable, solidarity and entrepreneurial types of UK social enterprises with their associated legal identities; Charity Law, Company Law and Society Law. Associated with each of these legal identities are three groups of legal form; Charitable Incorporated Organisations (CIO)'s, Co-operative Society Organisations (CSO's) and Limited Liability Companies (LLC's). Charitable Incorporated Organisations (CIOs) are presented as 'trading charitable types' that are regulated by the Charity Commission, with philanthropic ideology (Dees, 1998), unitarism (Ridley-Duff, 2007) and stewardship organising arrangements (Low, 2006; Davis, Schoorman, & Donaldson, 1997). Co-operative Society Organisations (CSOs) are presented as 'solidarity type' social enterprises adopting mutual principles of organising and democratic ownership (Spreckley, 1981, 2000, 2011, 2015). Underpinning the CSO is an identity that is based on wealth distribution and stakeholder democracy through multi-

stakeholder organising arrangements (Defourny & Nyssens, 2010; Ridley-Duff, 2007, 2015). Limited Liability Companies (LLCs) are presented as enterprises that are primarily for social purposes and are categorised as 'social business' types of social enterprise. Bull (2018) usefully gives the example of the Community Interest Company (CIC) as an LLC social enterprise where a single Director may retain control of the business, whilst the use of profit is capped and the social mission is protected by law and oversight by the CIC Regulator (Gov.UK, 2005; Ridley-Duff & Bull, 2015). LLCs might adopt either stewardship or democratic organising arrangements (Davis, Schoorman, & Donaldson, 1997; Low, 2006) and can therefore take one of three forms; a Company Limited by Guarantee, a Company Limited by Shares or a Community Interest Company.

Bull's (2018) three core types are presented in terms of prioritising their constitution in law, through their incorporation and regulation, rather than emphasising a non-profit or profit-plus viewpoint. In looking at the differences between those enterprises that are constituted by Company, Charity and Society Law, Bull (2018) highlights that they are different organisational forms with characteristics that cannot be simply rationalised as 'trading' (market logic) and 'social purpose' (social logic). However, the central space of Bull's Model is left blank as it is argued that the "conceptualisation of social enterprise in the UK has no 'ideal' type as there is no single legal identity" (Bull, 2018, p.589).

Despite warnings in the literature that "we should be wary of attempting to rely on one hegemonically dominant model of social enterprise" (Bull, 2018, p.600; Ridley-Duff & Southcombe, 2012) as yet scant attention has been given to the ways in which government policy documents, kite-marks, standards, privileged structures and funding criteria serve to prioritise and marginalise particular forms of social enterprise by bestowing or denying access to material and symbolic resources. Further, the implications of such disciplining effects and how individual entrepreneurs respond to them have also remained largely unexplored.

Current government policy documents such as the recent Civil Society Strategy (Cabinet Office, 2018) locate social enterprises along with charities in a

homogenous group termed the 'social sector' alongside the 'public' and 'private' sectors. In this 'civil society' narrative, social enterprises are strongly identified with the primary purpose of "delivering social value, independent of state control" (Cabinet Office, 2018, p 26) suggesting the promotion of social logics as underpinning a social enterprise category of organisation. In further support of this argument, the government (Gov.UK, 2017a) further define the category boundaries of what is seen as social enterprise activity for their annual 'Social Enterprise Market Trends Report' as only those enterprises that meet certain criteria are included. To be included; social enterprises must generate a minimum 50% of their income from trading (selling products or services); must not pay more than 50 per cent of the profits to owners or shareholders and must have primarily social/environmental objectives, mainly reinvesting their profits for that purpose rather than them being paid to shareholders and owners. The adoption of these criteria by such a powerful actor implies the prescription of a set of organising logics or institutionalised template for organising (Battilana, et al., 2009) and therefore a form of statecraft (Nickel & Eikenberry, 2016).

The Community Interest Company (CIC) is one of the newest types of structure for social enterprise and was introduced in 2005 by the Companies Act 2004 (Gov.UK, 2004) as amended by The Community Interest Company (Amendment) Regulations 2009 (GOV.UK, 2009) and regulated by the Regulator of Community Interest Companies. A CIC may be formed to limit its liability by shares or by guarantee but whilst a CIC limited by shares can issue shares and pay dividends it is subject to a dividend cap. The two most important features associated with the CIC are the asset lock, and the Community Interest Statement and Report. The asset lock seeks to ensure that profits and assets remain within the CIC and are used solely for community benefit, or transferred to another organisation which also has an asset lock. However, it may be possible to legitimately transfer assets if there is an accepted 'market value' for the asset which means that there is no loss in value (See Ridley-Duff & Bull, 2015 and the case of Ealing Community Transport).

Alongside the asset lock is a Community Interest Statement, signed by all the company's directors, declaring that the purpose of the enterprise is for community benefit (social logic) rather than private profit (market logic) whilst

describing the activities that it intends to engage in to pursue its mission. However, The CIC structure has been criticised for lack of clarity concerning how open and democratic its corporate governance model is in relation to the engagement of wider stakeholder interests (Boeger, 2018).

Embodying the key elements of social and market logics articulated in the government policy documents (Gov.UK, 2017a; Cabinet Office, 2018) discussed earlier the CIC structure has also been promoted heavily by publicly funded organisations such as the CIC Regulator as well as by practitioner groups such as Social Enterprise UK (SEUK) in a way that serves to drive further the institutional coherence of the social enterprise category (DiMaggio & Powell, 1983; Boxenbaum & Jonsson, 2017) of social enterprise activity.

In relation to kite-marks, the Social Enterprise Mark (SEM) is promoted by the Social Enterprise Mark Company as "the social enterprise accreditation authority" (Social Enterprise Mark Company, 2018) and applicants must demonstrate that they meet the SEM qualifying criteria in that they must;

1. Have social and/or environmental objectives.
2. Be an independent business.
3. Earn 50% or more of its income from trading.
4. Dedicate a principal proportion (51%+) of any annual profit to social/environmental purposes.
5. On dissolution of the business, will distribute all remaining residual assets for social/environmental purposes.
6. Be able to demonstrate that their social/ environmental objectives are being achieved.

(Social Enterprise Mark Company, 2016)

The SEM criteria detailed above bear a striking similarity to the criteria discussed earlier in relation to those used for inclusion as a social enterprise in the government's Social Enterprise: Market Trends 2017 report and further serves to reinforce the institutionalised template for organising (Battilana, et al., 2009) or institutional orientation (Vurro, et al., 2010) of the social enterprise category.

Kitemarks and certification systems for social enterprises are not widely available or adopted across Europe, with such systems being available in only four European countries in the form of the Finnish Social Enterprise Mark (F-SEM), the Polish [eS] certificate, the "Wirkt" stamp (It Works) in Germany and the Social Enterprise Mark (SEM) in the UK (European Commission, 2015). The Kite marks and certification systems noted have tended to struggle to gain widespread recognition and have generally seen limited adoption by social enterprises (European Commission, 2015). However, the SEM in the UK appears to be gaining some traction based upon support from government and practitioner groups. Further, the SEM describes itself as "the only internationally available accreditation scheme enabling credible social enterprises to prove that they are making a difference" and encourages consumers and business partners alike to "look out for businesses displaying the Social Enterprise Mark and buy with confidence, knowing that you are supporting genuine social enterprises to continue to make a real difference" Social Enterprise Mark Company (2018). Such rhetoric alongside support from other powerful actors serves to further strengthen, embed and 'discipline' the social enterprise category.

The emergence of the Social Enterprise Mark in the UK took place as Ridley-Duff & Southcombe (2012) note, amidst a number of conceptual and practical difficulties surrounding the definition of what a social enterprise should be alongside the competing institutional logics that drive how they should operate. Further, the authors (Ridley-Duff & Southcombe, 2012) argue that the espoused purpose of the SEM, according to its founding CEO, was actually to defend the social enterprise "brand" from government-funded bodies and voluntary sector organisations that were neither autonomous from the state, nor pursuing their social mission through trading (Finlay, 2011 as cited in Ridley-Duff & Southcombe, 2012; Finlay, 2017). A further argument advanced at this time was that the SEM was a potential vehicle to prevent private enterprises from presenting themselves as social enterprises on the basis of their commitment to a corporate social responsibility (CSR) agenda (Ridley-Duff & Southcombe, 2012) so continuing to reinforce the institutionalised templates for organising (Battilana, et al., 2009) of the social enterprise category.

It is interesting to note that the SEM embeds many of the assumptions of the CIC model and therefore makes obtaining SEM accreditation by CICs relatively straightforward whilst acting to exclude social enterprises with mutual or multi-stakeholder ownership (Ridley-Duff & Southcombe, 2012). A review of the Social Enterprise Mark directory notes a little over 150 accredited United Kingdom (UK) social enterprises (Social Enterprise Mark Company, 2018) with five organisations outside the UK having been awarded the SEM by 2017 (Regulator of Community Interests Companies, 2017). In further embedding the institutionalised template for organising (Battilana, et al., 2009) of the SEM during 2016 the Social Enterprise Mark Company was commissioned by the Higher Education Funding Council for England (HEFCE) to promote the SEM in order to encourage Higher Education Institutions (HEI's) to apply for the SEM, as well as promoting this to potential university applicants with around five Universities and Colleges being SEM accredited at that time (Guild HE, 2018).

Other accreditation systems for social enterprises have been promoted such as the Fairbusiness mark launched by Smarter World, a human development 'think tank', in 2013 as a competitor to the SEM. The Fairbusiness mark criteria included (Civil Society, 2013);

1. compliance with UK legislation and community standards
2. generation of at least 50 per cent of its income from trading and/or manufacturing
3. a statement in the enterprise's governing documents that at least 50 per cent of any profit is to be used to pursue social and/or environmental objectives
4. have a social and/or environmental mission and policy in place
5. be independent
6. not rely on volunteers
7. account for the social and environmental costs it creates.

Sharing some similarity with the institutionalised templates for organising (Battilana, et al., 2009) of the SEM, the Fairbusiness mark did not receive widespread support and was largely ignored by the government, funders and the social enterprise community.

Despite other emergent accreditation schemes and measurement mechanisms the SEM is now a firm part of the UK social enterprise landscape and is recognised by government (DBiS), government supported institutions (The Regulator of Community Interest Companies; the Higher Education Funding Council for England (HEFCE), Guild HE (formerly the Higher Education Academy) and promoted by practitioner networks such as Social Enterprise UK so further strengthening the institutional coherence of the category and driving the structural isomorphism (DiMaggio & Powell, 1983; Boxenbaum & Jonsson, 2017) of social enterprise activity.

Access to appropriate finance remains the biggest barrier for start-up and established social enterprises with 34% of those surveyed for the Social Enterprise State of the Nation Report 2017 (Social Enterprise, UK, 2017b) seeking finance in the previous twelve months, significantly ahead of their mainstream SME equivalents. Further, the inability to obtain investment and funding is the most significant reason cited for the closure of CICs (Regulator of Community Interest Companies, 2017). However, the primary reason for social enterprises seeking finance was to fund growth and the type of finance sought was most likely to be grant funding (Cabinet Office, 2016) suggesting evidence to support the assertion that many social enterprises are still grant dependant (Macmillan, 2007).

The hybrid nature (Carter & Jones Evans, 2006; Neck, et al., 2009) of many social enterprises suggests that they derive their income from both market sources as well as non-market sources. Revenues are generally obtained from public contracts to deliver public services (quasi-markets); direct grants or subsidies provided by public authorities for specific project-based activities and employment subsidies; through the sale of goods either business to business or business to consumer; membership fees, donations and sponsorship; and other forms income from rents, endowed assets, and non-monetary forms such as in-kind donations e.g. volunteer time, old IT equipment, surplus products, food or building material (European Commission, 2015). As Nicholls (2010) notes, the issues surrounding the financing of social enterprises, particularly that of social

investment are little researched by academics. Alongside this lack of academic attention, the issue is poorly understood by both social enterprises and lending organisations across Europe (European Commission, 2015).

Social Enterprises tend to seek start-up capital from a wide range of public, charitable and private sources alongside earning income by delivering public service contracts or by competing in mainstream markets. Ongoing investment sources for established social enterprises typically include funds from shareholders or debt products (See BIG Issue Invest, https://bigissueinvest.com/) or individuals seeking ethical banking (see https://www.charitybank.org and https://www.triodos.co.uk). Unsecured debt in the form of loans with fixed or variable rates that do not require security is rarely available to social enterprises from mainstream banks. Social enterprises may, however, seek to raise finance from a number of individuals or institutions through an 'unlisted bond' and though this requires an asset(s) as security it can often be more flexible than loans from a bank, attracting lower interest rates and with investors usually being paid back over a five-year period. For charities seeking significant amounts (£10m - £50m) of unsecured debt a 'Listed Retail Charity Bond' (a bond listed on a stock exchange) that is specially developed for charities and generally has a lower rate than a bank with investors being able to buy and sell individual bonds that are typically paid back in a little over ten years. Other loan mechanisms that enable shared risk are available through quasi-equity investment where social enterprises pay a return / interest based on their business performance. Alternatively mixed or tiered arrangements are possible where two or more lenders work together to provide a mix of different types of debt and or equity investment (Brown, 2006), and where one lender accepts most of the risk.

From 2015 certain forms of social enterprise (CICs, charities and BenComs) have benefited from investors being allowed to make investments into 'social enterprises' through the (SITR) scheme (Gov.UK, 2017b) and claim 30% income tax relief on their investment. However, as mentioned earlier, non-asset locked social enterprises remain excluded from this scheme. A further investment option is that of democratic finance where a social enterprise takes a grant, loan, equity or a mix of investments from a larger number of individual

investors or more usually the general public or a community of interest. The use of crowd funding platforms or public share issues have tended to be increasingly popular, especially for social enterprises maintaining community assets. The School for social entrepreneurs (2018) notes twenty-one different grant providers alongside fourteen social investment providers in the UK though access to certain sources are limited by the structure adopted. As observed by the European Commission, (2015) non-profit legal forms are typically able to attract philanthropic donations, grants and state tax reliefs but are mostly unable to access external investment so limiting their scalability. However, they may benefit from tax incentives whilst maintaining a related for-profit trading arm in order to maximise their ability to generate trading income though this can be complex and costly to establish in practice. Not for profit structures are generally unable to distribute profits (See also the Fair Shares Association Non-Profit Association Model Rules) and can, therefore, find it hard to attract investment whilst share companies are typically able to attract investment, though this may be restricted as in the case of the CIC. Often however, the mechanisms to protect social purpose whilst generating profits to distribute are often weak (generally enshrined in the articles of association) and can be circumvented, even in asset locked structures such as CICs that have a legal mechanism for this purpose.

Social enterprises tend to seek smaller amounts of finance with over half of social enterprises surveyed for the most recent State of Social Enterprise Survey (Social Enterprise UK, 2017b) seeking finance under £100,000, and over two-thirds seeking amounts below £250,000. Alongside seeking lower levels of finance, social enterprises have historically been largely focused upon the securing of grant support (Macmillan, 2007; Cabinet Office, 2016) with much scepticism surrounding equity investment (Sunley & Pinch, 2012). However, co-operatives have historically been very successful on the basis of member contributions and mutual finance (See the Rochdale and Mondragon co-operatives for examples). Many social enterprises have in the main remained cautious of debt and equity investment (associated with market logics) alongside the recognition that a great deal of time and effort is required to help social enterprises to become investment ready (Joy, De Las Casas, & Rickey, 2011). During 2016/17, social enterprises sought finance mainly from grants

(73%) with 9% seeking a loan and only 4% an overdraft, with the remaining 3% being made up by lease/hire purchase agreements (Social Enterprise UK, 2017b). However, it might be argued that this may be a product of definition rather than the nature of social enterprise itself. The cautious approach to financing social enterprises may perhaps be explained by their relatively small size (Cabinet Office, 2016; Social Enterprise UK, 2017b) and that they are also often highly resourceful and skilled at forms of bricolage (Barraket, Ling, Senyard, & Mason, 2013). ; Di Domenico, Haugh, & Tracey, 2010) which may, in turn, restrict their potential growth and expansion. Following that the financial survival of social enterprise is so deeply ingrained, then encouraging social enterprises to adopt new approaches and types of financing may require considerable help from intermediaries (Sunley & Pinch, 2012) as social enterprises try to balance market and social welfare logics.

In mapping social enterprises and their ecosystem the European Commission (2015) suggests that most countries across Europe lack a comprehensive range of public support measures specifically targeted at social enterprises and that public support is generally fragmented and ad hoc. The types of support cited as lacking include; start-up, particularly business planning; investor readiness support in accessing investment finance and networks specifically tailored to the needs of social enterprises. However, in the UK there are a significant number and variety advice and support schemes for social enterprises at a national, regional and local level. These schemes are mostly provided through partnership and networks of both specialist and generalist support providers, though recently the University sector has become increasingly involved in supporting social enterprises (See British Council, 2016). The support delivered varies from pre-start through start-up to consolidation and growth or all of these. Specialist support providers, such as UnLtd (www.unltd.org.uk/), and representative organisations such as Social Firms England (www.socialfirmsengland.co.uk/), Cooperatives UK (www.uk.coop/) and Social Enterprise UK (www.socialenterprise.org.uk/) offer between them a wide range of free to access advice, guidance, tools and other information about social enterprise issues. Alongside the specialist networks, the mainstream National Enterprise Network provides business advice through its network of Enterprise Agencies. Dedicated training and development is available through the School

for Social Entrepreneurs and some Universities. In addition to the provision of advice by advisers, an internet search reveals a significant number of practice-based advice documents available online from variety of organisations including law firms, funders, social enterprise support providers and networks alongside information papers on common structures for social enterprises from government departments (Bates, Wells, & Braithwaite, 2018; Cox, 2012; Department for Business, Innovation and Skills, 2011; DLA Piper & UNLtd, 2014; Frail & Pedwell, 2003; Morrison Foerster & Trust Law, 2012; Social Enterprise UK, 2017a; Wrigleys Solicitors, 2014). A review of the practitioner support documents available to social entrepreneurs reveals that they vary greatly in the level of detail provided but do tend to follow a similar format of; a description of the features of the main social enterprise structures, their basic advantages and disadvantages followed by some form of decision tree or flow chart to guide structure selection choices.

In relation to the specialist support available to social entrepreneurs in seeking to construct their governance model, this can be found from the established support organisations, peer networks or online from the Governance Hub (www.governancehub.org.uk/). Spear et al. (2007) undertaking research into the availability of governance support found that access to specialist governance support was at best patchy in terms of both its availability and quality, noting that;

"Overall the picture of support available is one where standards are highly variable from locality to locality; and where low-cost, specialist governance advisors are thin on the ground, if not impossible to find" (Spear et al., 2007, p 12).

However, the issues noted by Spear et al., (2007) in relation to access to advice would appear to run counter to the findings of other research for the European Commission seeking to map the UK social enterprise eco-system (European Commission, 2015) that suggests that there are a large number of publicly funded support schemes alongside networks and mutual support schemes available for social entrepreneurs to access. This disparity may be explained in part due to the passage of time between the two studies, the geographic

coverage of support organisations or to the awareness of social entrepreneurs of that support. However, in order to access advice, social entrepreneurs may find that there is a support organisation (generic or specialist social enterprise) or practitioner network in their locality from which they can seek business advice and others may be reliant upon seeking an independent business adviser at commercial rates or upon their own social capital for support. If there is social enterprise network available locally or regionally, access to membership and therefore support may be restricted to enterprises that fit the template for organising (Battilana, et al., 2009) of the social enterprise category such as those of the SEM and CIC. For those able to access support from a mainstream enterprise support organisation there is a general recognition that most of the support needs of mainstream entrepreneurs and social entrepreneurs are the same and include; developing and testing business ideas, developing a business plan, finding customers and managing finance (Fox & Whiteley, 2015). However, where social enterprises differ is in the need for specialist support concerning aspects of organising founded upon social logics such as; structures, social finance, the use of volunteers and organisational development, alongside governance which are all often linked to legal structure and the use of volunteers (Fox & Whiteley, 2015). Despite the similarities in support needs, concerns remain with regard to the degree of specialist knowledge and understanding of both mainstream and specialist advisers in relation to social enterprise structures. In respect of the access to legal advice by social entrepreneurs, further implications arise from the degree of understanding by lawyers who are predominantly experienced with structures associated with economic models, and market logics and lack understanding of the social logic of social enterprise or how social enterprise activity works in practice. However, in response to this tension, in recent years some of the larger law firms have developed specialist charity and social enterprise teams so as to better advise clients from a position of understanding both social/mutual and market logics as they specialise in providing advice to social entrepreneurs and engage more fully with the sector through their CSR programmes (See https://www.bwbllp.com/charities-and-social-enterprises; http://www.hempsons.co.uk/sectors/charities-and-social-enterprise/).

However, in relation to which social entrepreneurs seek advice and why they do so, there is little or no current academic writing concerning the provision of business advice in the UK and what little does exist is focused upon mainstream economic Small to Medium Enterprises (SMEs) rather than social enterprises. As the majority of social enterprises in the UK are SMEs then some insight can be drawn in relation to the type of support sought and from whom, in that accountants are the main source of support to SMEs and followed by consultants are the most important providers of business advice (Mole, North, & Baldock, 2017). SMEs more readily seek advice from accountants as they are perceived to be a trusted and reliable source of assistance beyond their audit and compliance roles, often based on personal and long-standing relationships (Jarvis & Rigby, 2012).

In the context of market logic, the importance of the business planning process and the development of a business model as a sound basis for trading are well understood. Dees, Emerson & Economy, (2001, p. 273) note that business planning provides a range of necessary outcomes; by creating a "clarity of direction", "knowledge of the market place", "strong commitment from stakeholders" as well as helping to "attract investment". However, as Bull and Crompton (2006, p 55) noted, some social enterprises, "suggested they could avoid structure, being a small business, choosing to rely on their core values rather than a business plan". Further, for social entrepreneurs seeking to develop a new enterprise, often for the first time, this business planning phase takes on an even greater significance (Burns, 2007; Rae, 2007) as both market and social logics become important.

2.2 The (social) entrepreneur

In seeking to understand why social entrepreneurs hold certain institutional orientations (Vurro, et al., 2010) and adopt particular institutionalised templates for organising (Battilana, et al., 2009) it is firstly appropriate to examine the nature of the (social) entrepreneur and in doing so address questions surrounding; who are they, what motivates them and how they behave? However, given the complexity of the issues, some authors have argued that simply asking these questions is an endeavour that is likely to prove unfruitful

(Kilby, 1971; Chell, 2008) or they are the wrong questions to ask in the first place (Gartner, 1998).

In exploring the entrepreneurial personality the basic assumptions have been that entrepreneurs are special people and have particular traits such as self-confidence, the need for achievement, a strong locus of control, a propensity for risk-taking and a strong desire for independence (Meredith, Nelson, & Neck, 1982). Timmons & Spinelli (2009) assert that entrepreneurs not only exhibit creative and innovative traits but also possess strong management skills, business know-how and sufficient contacts. The authors provide us with the following illustration that places the entrepreneur in context with the inventor, promoter and manager/administrator.

The entrepreneurial traits/skills matrix.

Removed for reasons of copyright.
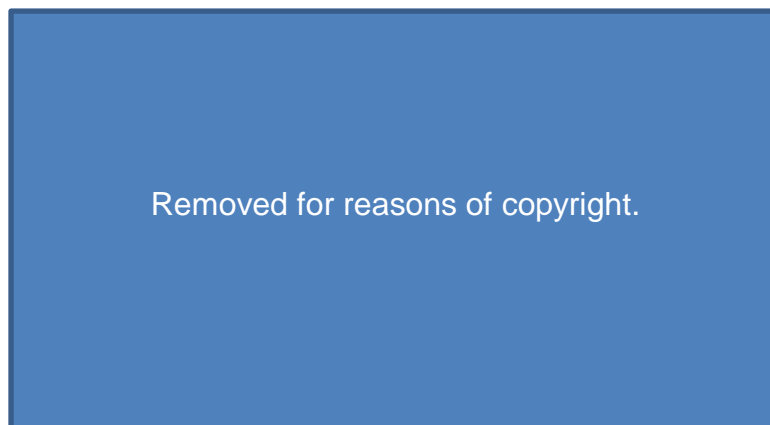
Timmons & Spinelli (2009)

This paints a rather idealised picture of entrepreneurs, exhibiting behaviours consistent with a high degree of creativity and innovation alongside highly developed business and management expertise that is perhaps not representative of entrepreneurs at large. In a search of an ideal mix, and being focused upon the individual, the authors perhaps miss the possibility that this ideal mix might be provided by a group or entrepreneurial team acting together (Kamm, Shuman, Seeger, & Nurick, 1990; Gartner, 1998; Harper, 2008) as often occurs in the formation of cooperatives and other social enterprises with shared ownership (See Ridley-Duff, 2015). Following this presentation, the major part of the entrepreneurship literature provides a view of entrepreneurs and entrepreneurship that is wholly positive and desirable; however, some

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authors (Kets de Vries, 1977; Baumol, 1990; Gartner, 2005) have explored the less positive aspects of entrepreneurial behaviour.

The work of Baumol (1990) discussed earlier, also hints at motivation, as he draws the distinction between "productive, unproductive and destructive" entrepreneurial activities as it provides us with a useful contrast of what might be positive traits alongside some rather less positive actions and outcomes of entrepreneurship that still resonate around current events such drug dealing, piracy, financial malpractice and rainforest destruction. Likewise, and in parallel to earlier discussion Kets de Vries (1977, 1985) identifies a number of possible negative traits and behaviours, describing certain entrepreneurs as "deviant", "non-conformist, poorly organised and no stranger to self-destructive behaviour" (Kets de Vries, 1977, p 41) such that we cannot rule out such behaviours being associated with some social entrepreneurs despite an espoused social mission and adoption of social logics.

A further part of the entrepreneurship literature that may be useful in seeking insights into the organising orientations of social entrepreneurs concerns whether entrepreneurs are born or created in order to explicate entrepreneurial personality and behaviours. Genetic research (Nicolaou, Shane, Cherkasc, & Spector, 2009) identifies common genetic factors for both opportunity recognition and the tendency to be an entrepreneur indicating that these two activities are fundamentally linked. Most recently in their article, the 'Big Five' Shane, Nicolaou, Cherkas, & Spector (2010) examine five key personality traits involved in influencing the pursuit of entrepreneurship; extraversion, openness to experience, disagreeableness, consciousness and emotional stability. In their study of over 4,500 twins in the UK and USA the authors' identified some correlation between accepted entrepreneurial traits and certain genetic factors, in this case, 'extraversion' and 'openness to experience'. However, and as the authors state, this correlation is a modest one and can only be said to be one of the many influences upon an individual's propensity for entrepreneurship, social or otherwise.

In looking to understand what makes people become entrepreneurs many authors (Bolton & Thompson, 2013; Shane, 2003; Shane & Venkataraman,

2000; Timmons & Spinelli, 2009) assert that the entrepreneurial process is initiated because people actively choose to pursue opportunities they have spotted and that the opportunity is a key driver, be that social, economic or both. Further drivers can be said to relate to an individual entrepreneur's belief in their own ability to gain the necessary skills, competencies and resources to reach their desired level of achievement for a chosen task or project (Bandura, 1997) and perhaps connecting with the focus of many social entrepreneurs upon their social mission (social logics). Bandura (1995) also suggests that entrepreneurial behaviour stems from the individual's feelings of control and enjoyment of the entrepreneurial process. It is argued that this feeling can be achieved through personal experience, the experience of others, by social persuasion and by reducing negative emotions towards their chosen venture. Baron (2004) argues that cognitive factors play a significant and important role in helping us to understand why individuals choose to become entrepreneurs, are able to spot opportunities and why some entrepreneurs are more successful than others. Baron (2004) concludes that successful entrepreneurs exhibit a reduced perception of risk, are natural prospectors, and have a greater susceptibility to the cognitive biases such as optimistic bias, affect infusion, allusion of control and planning fallacy. In a similar vein and as touched upon earlier Timmons & Spinelli (2009) present what might be considered a consensus, if idealised model for an entrepreneur centred around several dominant themes or core entrepreneurial attributes; commitment and determination, courage, leadership, opportunity obsession, tolerance to risk, ambiguity and uncertainty, creativity, self-reliance and adaptability and motivation to excel. These core attributes are, it is argued, supported by a number of desirable attributes; intelligence, creativity and innovativeness, energy, health and emotional stability, values and the capacity to inspire. However, in this presentation, the potentially negative aspects of entrepreneurial personality (Gartner, 2005; Kets de Vries, Spea1977, 1985) are termed non-entrepreneurial attributes and therefore a significant portion of what makes up the personality of certain entrepreneurs is simply dismissed.

In addition to the cognitive factors previously discussed, the entrepreneurship literature identifies certain cultural and environmental factors that shape the genesis of the entrepreneur (McClelland, 1961; Bolton & Thompson, 2013;

Shane, 2003; Carter & Jones Evans, 2006; Timmons, 1985; Timmons & Spinelli, 2009). Bolton & Thompson (2013) identify family background, education, age and work experience as particularly important in shaping entrepreneurial behaviours. Similarly, Shane (2003) cites education and experience (career, general business, functional, industry and start-up) as being amongst the most important environmental factors. As with Timmons & Spinelli's (2009) identification of key entrepreneurship competencies and skills, these can be said to be largely the skills of modern management and leadership rather than being the preserve of the entrepreneur, particularly in respect of marketing, operations, team building, culture building, vision setting and team working. In addition to these factors, the pervasive influence of the socialisation practices that are shaped by our cultural values and attitudes, it is argued, help to either foster or hinder the emergence of entrepreneurial individuals (McClelland, 1961). Here, the disincentives perceived by Baumol (1990) might provide the very conditions that lead to the 'social innovations' and social entrepreneurship described by Leadbeater (1997). For example, the onerous legal requirements, lack of lucrative financial return and the inherent cost of investment in deep-rooted social issues that might act as disincentives to traditional economic entrepreneurs, might actually provide the social innovation stimulus that drives some social entrepreneurs (Leadbeater, 1997) as they are focused on social welfare logics.

In respect of the differences between social and economic entrepreneurs and as touched upon earlier the current discourse continues to primarily distinguish the behaviours of social entrepreneurs from mainstream entrepreneurs by the balance of their intended outcome or financial goals against social or environmental motivations. Dees & Elias (1998) suggest an orientation towards hybrid forms of organising as they present a picture of the social entrepreneur as a special breed of leader, distinguished from purely economic entrepreneurs by their creation and sustenance of social value and their heightened sense of accountability to the constituencies served and for the outcomes created.

The venture creation process of the social entrepreneur described earlier may also be viewed by more mainstream entrepreneurs as 'irrational' as the social enterprise process occurs despite and often because of an inhospitable

environment (Steinerowski, Jack, & Farmer, 2010) which would suggest the promotion of social over market logics by social entrepreneurs. Following this vein, Zahra, Gedajlovic, Neubaum, & Shulman (2009) in their typology of social entrepreneurs describe them as visionary and charismatic leaders and this accords well with the goal of the social entrepreneur being focused upon social logics as they seek the resolution of social problems (Chell, Nicolopoulou, & Karatas-Ozkan, 2010).

This theme of difference is pursued by Betsy Hubbard when she suggests that mainstream corporate leadership development has little to offer in supporting social entrepreneur leadership development as the former has evolved through research and experience from within the context of the market logics of the global corporate sector (Hubbard, 2005). Hubbard (2005) follows on to argue for a collective leadership paradigm in seeking to solve some of social entrepreneurship's more complex, messy situations suggesting that traditional top-down approaches are unlikely to be successful. This emergence of 'collective leadership' approaches from the 1990's with its focus upon participation and shared ownership (mutual social logic) was, it is argued, born out of social entrepreneur's responses to the "demoralizing revelations of corruption, malfeasance, and sheer stupidity in the corporate world" (Kellerman, 1999, p. 7) alongside rapid demographic and technological changes.

In response to this situation a new collaborative approach was sought that involved "participants in planning, implementing, and evaluating their actions together, sharing leadership responsibilities and decision making, and building bridges to other communities and organizations" (Markus, 2001, p. 8). It is perhaps inevitable given the social logics adopted by social entrepreneurs that new forms of enterprise structures would be sought in response to more traditional, less democratic and ultimately more corruptible structures (Markus, 2001; Hubbard, 2005; Kellerman, 1999, 2008; Ridley-duff & Bull, 2011; ashoka.org, 2011).

There is a great deal that is consistent in the research and literature to suggest that the makeup and behaviour of both social and economic entrepreneurs are consistent in many respects but different in many others. We can, however,

identify key defining factors in the way that social context, mission and measurement of success impact upon entrepreneurial behaviour and entrepreneurial processes. This position is supported by Neck, et al (2009) who cite the nature of the opportunity pursued, the nature of the stakeholders involved and related performance measurement as the significant and defining elements of social entrepreneurship action. However, we might strongly critique the notion that social entrepreneurship is defined by a single focus on social or environmental mission (social logic) and a lack of interest in wealth creation (market logic) (Chell, 2007) as this is not supported by practice or research (Bornstein, 2007; Ridley-Duff & Bull, 2011) as social entrepreneurs often combine both logics. Further, we can recognise that social logics are themselves pluralistic in their mission to benefit others (philanthropic social logic) and the mission to include others in decision-making (mutual social logic).

We can argue, however, that the defining factor in terms of social entrepreneur behaviour is the adoption of more democratic orientations towards organising (social or mutual logic) that in turn shape the structure and conduct of social enterprise activity. Support for this argument is found both throughout the social entrepreneurship literature (Hubbard, 2005; Kellerman, 1999, 2008; Markus, 2001; Ridley-Duff & Bull, 2011) and in professional practice as well as being cemented into the organising practices and structures of active social enterprises across the world. Further support can be found with regard to the entrepreneurial process from Austin, Stevenson & Wei-Skillern, 2006, p. 9) who cite "the interaction of the social venture's mission and performance measurement" hence the presentation of a "social value proposition" (social logic) in which the nature of the people, capital and opportunity differ considerably from those in a purely economic value proposition (market logic). Drawing on Guclu, Dees & Battle Anderson (2002) and their presentation of a social enterprise creation process we can clearly identify mainstream entrepreneurial processes being redefined with a 'promising idea' being shaped by 'social needs' and 'social assets' (social logics) then being developed into an 'enterprise plan' (market logic) measured by a 'social impact theory' resulting in 'social impact' (social logics).

In relation to personality traits and the comparison of social and traditional entrepreneurs relatively little has been written, but in their study of both types of entrepreneurs Smith et al (2014) found that the social entrepreneurs scored statistically significantly higher in three out of the five entrepreneurial personality dimensions that they measured; creativity, moderate/calculated risk-risk-takingtaking and need for autonomy/independence. However, the authors perhaps unsurprisingly given the references in the literature to the importance of these traits to all entrepreneurs found no statistically significant difference between social and traditional entrepreneurs in respect of their 'drive & determination' (Meredith, et al., 1982) and their 'need for achievement' (Gartner, 1998) which were found to be high in both groups.

The discourse surrounding social and traditional entrepreneurs provides no consensus amongst academics as to the entrepreneurial personalities of social and traditional or economic entrepreneurs with some arguing that the two are incompatible (Arribas, Hernández, Urbano, & Vila, 2012) as traditional entrepreneurs are likely to demonstrate high levels of self-interest and low levels of social conscience with others arguing that they are not different at all but 'one species within the genus ''entrepreneur'' (Dees, 1998, p3) and with the only difference being in the values and perceptions driving their visions and ventures (Martin & Osberg, 2007). In further support of this view, Ernst (2012) argues that successful social entrepreneurs possess the same entrepreneurial personality traits as traditional entrepreneurs alongside aspirations to address a social issue that is suggestive of both market and social/mutual logics.

It has been argued that all forms of entrepreneurship tend to be more innovative and creative (Timmons & Spinelli, 2009) but that social entrepreneurs have to demonstrate a higher degree of creativity and innovation (Leadbeater, 1997) than traditional entrepreneurs as they are forced by necessity to leverage limited resources with more constraints on governance than traditional entrepreneurs. It is further argued that social entrepreneurs have to be more creative as they seek to balance the competing demands of market logics and the social logics as they try to combine them (Pache & Santos, 2013b; Sullivan Mort, et al., 2003).

The attitudes of entrepreneurs to risk is a common theme in the literature as it is argued that entrepreneurs of whatever type are natural prospectors and exhibit a reduced perception of risk Baron (2004) and that social entrepreneurs exhibit higher levels of risk-taking than their traditional counterparts (Smith, et al., 2014). Further, and as (Galle, 2010) observes, social entrepreneurs are often seen to exchange their chances of economic prosperity for the achievement of their social mission such that market logics are supressed in favour of social logics or a mix of the two as they create blended value (Emerson, 2003).

Interestingly, when the involvement of a greater number of stakeholders is concerned, as is the case with social enterprise activity (Low, 2006; Spear et al., 2007) it is argued (Smith, et al., 2014) that the inherent risk taking behaviour of the entrepreneur increases with the greater number of stakeholders dependent upon the enterprise. See also the notion of 'risky shift' and its relationship to ethics as discussed by Armstrong, Williams, & Barrett (2004). In exploring the trait of autonomy/independence, Smith et al (2014) found that the social entrepreneurs in their personality traits study exhibited a higher level of the 'need for Autonomy/independence' than did traditional entrepreneurs, and having also found social entrepreneurs to inherently take more risks, as they argue that taking risks is an attribute of an individual who is more prepared to take and be accountable for their individual entrepreneurial actions, when compared to traditional entrepreneurs. Critiquing the often held notion that social entrepreneurs are more likely to exhibit a prosocial personality (Ernst, 2012) in that they would be more likely to seek collaboration and consensus in decision making the authors instead suggest a comparison to what Becker (1963, p 147) calls "moral entrepreneurs". This entrepreneur is characterised as crusading for the creation and enforcement of rules or social values (see also, Conrad, 1975) though the authors also add the knowledge, skills and drive to run an enterprising organisation (Smith, Bell, & Watts, 2014).

In sum, the extant literature illuminates similarities and differences between social and economic entrepreneurs in different contexts in ways that contrast and conflict in equal measure. However, what is clear is that social entrepreneurs are presented as mixing both market and social logics in achieving a social mission. To what extent economic mission (market logic) or

social mission (social logic) prevails in terms of organising orientations varies between very different social entrepreneur micro contexts and between varied external environmental contexts.

2.3 Implications for social enterprise structure choice

In relation to the selection of structures by social entrepreneurs in the UK the literature remains a field that has received relatively little attention from scholars save from a few that have sought to address structure selection either directly (Cox, 2006, 2012), or in relation to typology (Bull, 2015, 2018), governance (Spear et al., 2009) or new forms of social enterprise (Ridley-Duff, 2015). The extant literature surrounding the macro level logics of social enterprise activity and the micro-level (entrepreneurial) influences upon that activity have been discussed earlier, however, the points of tension between these two types of influence hold many implications for the structure choices of social entrepreneurs.

Despite the lack of academic attention there has been much interest paid by government, practitioner groups, national networks and support organisations (See Frail & Pedwell, 2003; Department for Business, Innovation and Skills, 2011; Morrison Foerster & Trust Law, 2012; Cox, 2012; DLA Piper & UNLtd, 2014; Wrigleys Solicitors, 2014; Bates, Wells & Braithwaite, 2018; Social Enterprise UK, 2017a) alongside many more regional & local organisations (See Fraser, 2013; Queens University & Kingston Social Planning Council, 2011) who have largely provided linear rational decision tree type models alongside basic information to support social entrepreneurs as part of their business planning phase.

A very particular intersection of tension surrounds the privileging through promotion by powerful actors such as government and practitioner groups of kite-mark standards such as the Social Enterprise Mark (SEM) and legal structures such as the Community Interest Company (CIC) that embody the category of social enterprise. This privileging holds implications for structure selection as those structures represent legitimacy to funders, government

agencies and practitioner groups who all, in return provide access to finance, business support and legitimacy.

The tension that surrounds the construction of funding criteria concerns the exclusion of certain forms of social enterprise, particularly those that do not conform to the SEM, adopt the CIC structure or additionally seek charitable status. Yet further with regard to funding, in the Government's 2014 Autumn Statement in it announced that it was extending the social investment tax relief scheme (SITR) (Gov.UK, 2017b) with effect from 2015 allowing investors making investments into 'social enterprises' to claim a 30% income tax relief. However, the definition of social enterprise applied related directly to legal structure as the investee organisation had to be a Community Interest Company (CIC), a charity or a Community Benefit Society (CBS), therefore excluding social enterprises limited by shares from the social enterprise category. The key issue surrounding the exclusion of some social enterprises centred on the absence of an "asset lock" in their legal structure. Small amendments were made to the scheme in 2018 but the exclusion of the aforementioned structures remains a key point of tension and serves to hinder the growth of non-asset locked social enterprises to the present time. This privileging of selected forms of social enterprise activity, in turn, serves to further define and strengthen the boundaries of the social enterprise category i.e. what is and what is not legitimately a social enterprise and therefore the collective identity of the category members (Hsu & Hannan, 2005).

The social enterprise category constructed by such powerful actors is maintained by minimising the differences between the members in the category through the promotion of the SEM and the CIC as legitimate forms of social enterprise. As both of these institutionalised templates for organising (Battilana, et al., 2009) place restrictions on the distribution of profits and the ownership of assets (social logic) this manifests as a point of tension for social entrepreneurs with orientations towards retained ownership or shared ownership (market logic) excluding them from the social enterprise category (i.e. those recognised by the EMES Network and FairShares Association).

Further, by maximising the differences between the social enterprise category and others through the promotional activity of the SEM and the CIC Association alongside other supporters of the category such as Guild HE serves to create clear boundaries or points of tension between the social enterprise category and other categories. This separation, in turn, serves to further facilitate the categorisation process as social entrepreneurs seek the associated categorical legitimacy (March & Olsen, 1989; Glynn & Navis, 2013) and recognition from stakeholders (Hsu & Hannan, 2005) such as practitioner networks, customer, suppliers and other more powerful actors.

Further, this placing of organisations into categories acts as a disciplining function that can shape the allocation of attention among stakeholders (Zuckerman, 1999) as well as facilitating comparisons between the institutions within a category (Hsu & Hannan, 2005). The use of categories by government, funders, kite-marking organisations and practitioner networks in order to recognise, evaluate and select the members of the social enterprise category creates an 'organizational 'imperative' (Glynn & Navis, 2013) for social entrepreneurs to adopt the logic of that category as a precursor to acquiring both social approval (acceptance as a social enterprise) and material resources (grants, investment and business support) (Zuckerman, 1999; Lounsbury & Glynn, 2001; Glynn & Navis, 2013).

Additionally, when social entrepreneurs strategically self-categorise in response to their audiences they may do so largely in pursuit of legitimacy and this can act as a prime driver for their structure selection. In addition to self-categorisation, social enterprises are subject to forms of direct and indirect categorisation by expert legitimating agencies (Vergne & Wry, 2014) such as the SEM and funding bodies such as grant-giving organisations or investors and government departments. Direct categorisation can be seen in the direct requirements of funding bodies', social investors and grant givers concerning charitable status, ownership arrangements and the distribution of profits. Indirect social categorisation can be seen in the legitimating actions of kite-mark awarding bodies such as the SEM or those promoting particular structures such as the CIC Association or CIC regulator as they act to make

the social enterprise category an increasingly governable domain (Nickel & Eikenberry, 2016).

Additionally and when taken from a sociological perspective, legitimacy is predicated on an organisation conveying an identity that fits within an established category (Navis & Glynn, 2011; Glynn & Navis, 2013) of social enterprise activity. Wry, Lounsbury and Glynn (2011, p. 1) also suggest that this identity represents a "clear defining collective identity story" that identifies the group is engaged in social enterprise activity, "with a common orienting purpose and core practices" such as those of the SEM criteria and those embedded in the CIC structure. However, and again from a psychological perspective, organisations with common attributes will also see themselves as part of the same category and may, therefore, lead social entrepreneurs to self-categorise themselves accordingly (Glynn & Navis, 2013) whilst also excluding those that they do not see as part of the social enterprise category.

2.4 Chapter summary

In summary, this chapter reviewed the literature surrounding the macro level logics of social enterprise activity and the micro-level influences upon that activity followed by a review of the gap represented by the dynamic intersection of these two types of influence in terms of the implications for the structure choices of social entrepreneurs.

The organising preferences of social entrepreneurs have been explored in relation to their traits and behaviours in order to explicate their potential orientations towards organising, particularly in relation to their selection of structure. Alongside this, the macro-level influences acting upon social enterprise activity concerning government policy documents, funder/investor criteria, kite-marks and promoted structures have likewise been considered in relation to structure selection.

The largely overlooked, dynamic intersection of both micro level orientations of social entrepreneurs and the macro-level logics of social enterprise activities has also been discussed in order to illuminate the field of tension faced by social entrepreneurs in their selection of a structure. Further, the disciplining

effects of government policy documents, funder/investor criteria, kite-marks and promoted structures as artefacts of constraint upon the organising behaviours of social entrepreneurs is foreshadowed prior to the reporting of the empirical findings of this study.

Chapter 3 - Methodology

This chapter discusses the rationale for the research design and considers my underlying philosophical assumptions alongside their related methodological implications, the specific data collection and analysis methods used, the related ethical issues and the criteria appropriate for assessing the research (Crotty, 1998; Cresswell, 2007; Thomas, 2006).

3.1 An interpretative approach to understanding social enterprise structure selection.

In selecting a research paradigm for this research I have considered three fundamental elements; ontology, epistemology and methodology. In respect of my ontological commitments; concerning "the nature of reality" (Lincoln & Guba, 1985, p. 37) I believe the social world to be something that people are in the process of constructing (Bryman, 2008) such that concepts are constructed rather than discovered. In terms of ontological commitments, I maintain a realist stance in the belief that these constructed concepts correspond to something real in the world (Andrews, 2012). With regard to epistemological considerations related to the source of knowledge for this research or the ways of knowing that knowledge I have taken a subjective stance. The argument advanced for adopting this subjective approach relates to my commitment to the fundamental difference between the subject matters of the natural and the social sciences. I contest that natural scientists impose an external causal logic for explaining a behaviour that is inappropriate for understanding the complex and context-specific human interaction involved in the structure selections of social entrepreneurs (Gill & Johnson, 2010). I have therefore chosen to adopt an inductive/interpretivist approach because of a strong commitment to a belief that the behaviour of social entrepreneurs and their advisers is based upon their interpretation of the phenomena of structure selection. Following this, it is my commitment that what we understand as the social reality is a projection of our own subjectivity and therefore truths concerning social enterprise structure selection are best arrived at through our engagement with and observation of social entrepreneurs (Berger & Luckmann, 1967). In seeking to understand the

selection of social enterprise structures I viewed my interpretation as being built by me from the jointly constructed understandings of structure selection as expressed by the research participants (Ratner, 2008). In this way, I was able to learn how social enterprise structure selections were constructed, sustained and changed over time as this construction was variously understood and simultaneously (re)constructed by practitioners who are actively concerned with the formation of social enterprises. Following Berger and Luckmann (1967), in the conduct of this research the social entrepreneurs and their advisers were the social actors that shared with me their constructions of social enterprise structure selection as I interviewed them (Alvesson & Ashcraft, 2012), enabling me to undertake my own process of interpretation of those structure selections for this thesis. I argue that in examining issues of social and political science and in order to understand the social world, it is necessary to engage with and participate in that world (Marsh & Furlong, 2002) and in approaching this thesis as interpretivist inductive research, I placed myself in a position to be able to engage closely with the social actors in understanding their perceptions about their experiences of structure selection.

Further, in undertaking this research I have endeavoured to "see through the eyes" of the research participants (Bryman, 2008, p. 385) and capture their point of view (Denzin & Lincoln, 2011) during the data collection such that I have been able to make an interpretation of social enterprise structure selection. In this way *"the knower and the known are inseparable"* (Lincoln & Guba, 1985, p. 37).

In considering the third element of research paradigm, that of method, procedures for data collection, analysis and interpretation to be used, I have adopted a directional relationship between ontology, epistemology, methodology, methods and sources (Grix, 2010). In sum, my interpretivist approach to knowledge is underpinned by realist ontology and epistemology that is subjective in nature.

3.2 The qualitative research methodology

In considering the methodology for this research I have adopted a qualitative approach that emphasises words rather than quantification in the collection and

analysis of data and involves an inductive approach to developing theoretical insights that embodies the view that social reality is an ever changing, emergent property of an individual's creation (Bryman & Bell, 2015; Gray, 2016). By an inductive approach, I refer to an approach in which I have primarily used detailed readings of the raw data to derive theoretical insights (theoretical building blocks) and a model for social enterprise structure selection through interpretations that I made from that raw data (Thomas, 2006).

The aim in selecting a qualitative approach was to provide an understanding of what was occurring or has occurred in the context of the practice of social enterprise structure selection so as to enable me to interpret the interpretations of the research participants (Geertz, 1973, as cited in Bryman, 2008) through a "process of attentive and empathetic understanding" (Miles, & Huberman, 1994, p. 6). In this qualitative, interpretivist approach I have focused on understanding social enterprise structure selection through my interpretation of its construction by social entrepreneurs and their advisers (Bryman & Bell, 2015). The key characteristics of my approach concerned intense contact with social enterprise structure selections constructed by social entrepreneurs and their advisers in their practice settings. Through this interaction with the research participants, I was able to understand the ways in which they act and account for their actions as well as exploring and reviewing emergent and divergent themes with them (Gray, 2016).

A further consideration in adopting an inductive, qualitative approach concerned my wish to construct new theory from the theoretical insights gained rather than testing existing theories (Bryman, 2008). Following the inductive aspect of the research, it was important to me that the understanding generated was of real-life application and that social entrepreneurs might adopt it into their professional practice.

3.3 Research methodology

As discussed earlier, the qualitative research approach was adopted for this research activity. In relation to the research methodology adopted, a case-based approach was followed in which the cases can be considered to be social entrepreneurs and their advisers bounded by the context of social enterprise structure selection (Miles & Huberman, 1994). Further to this, a storytelling approach was adopted as a form of meaning construction as it was my belief that individuals would make sense of their concerns regarding structure selection by telling stories (Collison & MacKenzie, 1999) such that I might interpret their constructions of structure selection.

3.4 Research methods

The face to face interview was selected as it is one the most widely used techniques in collecting qualitative data due to its inherent flexibility of use (Bryman & Bell, 2015) and the facilitation of the relationship with the research participants (King, Cassell, & Symon, 1994). The main method of data collection in this research was therefore from face to face interview discussions based on a set of semi-structured interview questions. In order to access a broad range of experiences of social enterprise structure selections the study involved two distinct types of research participant: social entrepreneurs (in order to access their own experiences of their structure selections) and advisers to social entrepreneurs who were engaged in the provision or business, governance, legal and financial advice (in order to access their secondary experience of many, many structure selections and to understand how social entrepreneurs were advised on those selections). In respect of the two types of interview participants, two tailored sets of semi-structured interview questions were developed (Appendix 3). The interview questions where then undertaken in two phases; an initial pilot phase in which the questions were tested with one social entrepreneur and one adviser participant followed by a second phase involving a roll-out of the question sets to the remaining research participants.

The outline structure provided by the questions sought to ensure a degree of

focus and standardisation across the research participants but at the same time afforded a degree of flexibility in pursuit of new and promising lines of enquiry (Kvale, 2008). For example, early on during the conduct of the research interviews, it emerged that some social entrepreneurs were seeking to adopt structures that appeared to possess a high degree of legitimacy but were, in turn, engaging in practices that ran contrary to the expected conduct associated with that structure. This promising line of enquiry was then explored with both social entrepreneurs and their advisers, which in turn suggested that this was far from an isolated case of this type of practice in structure selection. Further interesting lines of enquiry also presented when exploring the participant and/or client's current structure. Particularly, issues surrounding how this choice was made and whether this remained the most appropriate structure as the research participants expressed concerns about the emergence of kite-marking, particularly the Social Enterprise Mark (SEM) and the privileging of structures that met the criteria for the SEM.

The types of data sought included the social entrepreneur participant's accounts of the influences upon their selection of a structure, their enterprise's current structure, how the selection of that structure was arrived at and in what context. Again, these interesting lines of enquiry were pursued in the interviews with all subsequent research participants. The general structure of the interview followed a story-telling type approach, engaging participants in a discussion about the formation of their social enterprise(s) to the present day including the choice of structure and its current effectiveness. It is perhaps important to note that in taking this approach that I viewed the historical truth of each account or story as being of lesser importance than the meaning that the research participant may have intended to present from the story (Riessman, 1993). In developing this story-telling approach with the participants, it was also possible to gain historical and in-depth data concerning the influences acting upon the selection of social enterprise structures and the related outcomes, both successful and unsuccessful as presented by the research participants. Additionally, I was able to encourage a degree of reflection on the part of participants in respect of how the decisions regarding their structure were arrived at alongside whether or not that structure remained appropriate and why.

I planned to record interview data using a 'smart phone' (Bryman, 2008) in the interests of accurately capturing the conversations that would take place (Patton, 2002a) and allow me to focus on the conversation, spotting and pursuing interesting lines of enquiry. Despite concerns over the intrusiveness of recording devices (Lincoln & Guba, 1985; Bryman, 2008) and the possibility that the research participants would not be as candid if being recorded, it was hoped that the use of a familiar, everyday device such as a 'smart-phone' would go some way to address this concern. In practice, the research participants made no objection nor appeared to alter their manner in any way in response to my recording of the interviews with a standard recording device on the few occasions when the smart-phone failed to operate or ran low on battery power. It was the initial aim for the interview data obtained to be transcribed by me rather than being undertaken by others so as to allow me to get closer to the data, encourage the early identification of key themes and develop an awareness of the similarities and differences in the accounts of different research participants (Barnes, cited in Bryman, 2008). However, in practice, this was not possible for all interviews due to health reasons.

3.5 Data collection

In the first stage of fieldwork for this study, initial interviews were held with a social entrepreneur and a business adviser to enable piloting of the interview questions initially developed for each participant type alongside the data recording methods as well as to provide two useful practice sessions. I began my pilot exercise with a list of questions which were informed by an initial literature review and the research aims. At the beginning of each interview, I asked each participant to tell me a little bit about themselves and their social enterprise journey so as to provide useful background material on each participant in their own words. This early question served to break the ice and helped to build a degree of trust and rapport between myself and the interview participant. The pilot interviews lasted for approximately an hour. During this early phase, it became clear that the adviser participants were more likely to be not only advisers but also more experienced social entrepreneurs in their own right. In the light of this discovery, I decided to adopt an approach whereby the interview question set for the adviser participants would take the form of a mix of appropriate questions from the social

entrepreneur question set as judged appropriate by me during the interview alongside the adviser question set as previously envisaged. Initial findings from the two interviews conducted suggested that the issues of ownership, control, lack of understanding of structures, access to funding and the availability of legal advice where important issues related to the selection of a social enterprise structure. These aspects then became focus points that gave context to the existing question sets.

3.6 Sampling technique and sample selection

In seeking the information-rich experiences of social entrepreneurs and their advisers in relation to their structure selections that I could study in depth (Patton, 2002a) and following Lincoln & Guba (1985) I adopted a purposeful, maximum variation sampling strategy. By purposeful I refer to the selection of information-rich cases to study in depth Patton (1990) and by maximum variation, I refer to the selection of cases representing a heterogeneous range of characteristics and contexts related to the research question (Saunders, as cited in Symon & Cassell, 2012). The intention in selecting this approach was to as far as possible, sample for heterogeneity of experiences and contexts of structure selection such as; organisation size, type, sector alongside entrepreneur experience, entrepreneurial orientations, and types of structure selected. I deemed this necessary in order to understand how social enterprise structure selection was seen and understood among different social entrepreneurs or their advisers in different settings and at different times. In short, to search for variation in the perspectives of social entrepreneurs in their structure selection choice that ranged from the typical through to those that were more extreme in nature and with the aim of identifying common and divergent themes that were evident across the sample. The sample was selected from a pool of organisations drawn from local, regional and national networks of social entrepreneurs and the adviser (business, financial, governance and legal) community across England. The sample, whilst providing a cross-section of variation in terms of size, structure, maturity, orientation of social purpose and trading environment such that it was envisaged that this might provide an

opportunity to engage with a wide range of potential influencing factors concerning social enterprise structure choice.

The construction of the pool from which to draw the sample was undertaken by; contacting the chairs of local regional and national networks, writing to the organisations on their databases to ascertain their willingness to take part and then drawing up a sample from those willing to take part in the research. The potential participants selected were then contacted to confirm their participation and at which time they were sent a detailed participant briefing including confirmation of ethics committee approval (Appendix 1), a set of the semi-structured interview questions (Appendix 2) alongside a standard proforma confirming their informed consent to take part in the study. The outcome from this process was the selection of two participants, one social entrepreneur and one adviser with whom to pilot the interview questions before commencing the study proper. At this time a further ten social entrepreneurs were selected to interview, and this was considered to be sufficient starting point. Whilst it was not possible to identify any hard and fast rule as to how many participants would provide an ideal sample, following Kvale & Brinkman (2009) a range of 15 +/- 10 (5-25) was thought to be an appropriate start point for this research given the sample selection method was likely to provide for multiple practice experiences of each social entrepreneur and significantly more practice experiences from the adviser participants. Whilst this range was adopted it was accepted that it was not truly possible to establish in advance an appropriate sample size (Blaikie, 2000, 2007; Oppenheim, 1996). However, in practice this sample proved to be sufficient insomuch that by the completion of the final interview no new information or themes were emerging (Bryman and Bell, 2011, 2015; Cresswell, 2007; Symon & Cassell, 2012) from the sixteen hours of interview recordings made and five hundred and eighteen pages of interview transcripts produced.

The following table (3.1) illustrates the final data collection sample including both adviser and social entrepreneur participants. Where participants had experience of both aspects of social entrepreneurship and provision of advice their various roles are noted.

	Role(s) in social enterprise	Enterprise typology (Bull, 2015)	Experience of social enterprise (years)	Participant context
1	Chief Executive Officer of a social enterprise	Social Business	25	A Chief Executive Officer (CEO) of a local authority spin social enterprise out engaged in the provision of alternative education to children excluded from secondary school. The participant has 25 years' experience in a social enterprise and was responsible for working with an advisory group to put in place the organisation's legal structure. The participant and their board are currently exploring a change of legal structure in pursuit of sustainability in connection with public funding.
2	Business adviser, funding adviser and a director of a social enterprise.	Social Business	14	A business adviser for a social investment organisation with 14 years of experience in providing business support to social enterprises and having supported over five hundred organisations in that time. The participant is also a founder member and former chair of a city-based social enterprise network alongside being a director of a number of social enterprises.
3	Business adviser and a director of a social enterprise	Trading Charitable (BenCom)	15	A former manager having worked in the charity sector for over 15 years as an employee and as a trustee. The participant has been a business adviser for the last five years providing business and legal structure advice to a range of social enterprises and is currently researching into entrepreneurship and crowdfunding for a degree of Doctor of Philosophy (PhD).
4	Social entrepreneur, business adviser and director or several social enterprises	Social Business	13	A CEO and founder of a social enterprise support organisation and a serial social entrepreneur with 15 years' experience. The participant's organisation has provided business support and legal structure advice to over 100 social economy organisations in the last twelve months. In addition, the participant has been a board member of a regional development agency, a University social entrepreneur in residence and a charity trustee amongst other third sector national representative roles.
5	Social entrepreneur and director or several social enterprises	Social Business	11	A serial social entrepreneur who has created a number of social enterprises including a large community based business and entrepreneur support venue in a major city setting. The participant has 8 years' experience in the support, development and creation of social enterprises.
6	Chief Executive Officer and business adviser	Trading Charitable	11	An experienced social enterprise Chief Executive Officer with 11 years' experience in creating and running social enterprises with a variety of legal structures. The participant has been very active in the area of trading charities as well as a number of other roles in the voluntary sector. In addition the participant has several years' experience as a business adviser to social enterprises alongside experience of turning around the governance and operations of failing social businesses.
7	Chief Executive Officer of a social enterprise	Social Business	21	The CEO of a local authority spin-out social enterprise providing employment and careers guidance to young people and adults. The participant has with 21 years' experience of social enterprise as both a Finance Director and CEO. The participant

				is responsible for the oversight and continual development of governance arrangements including those concerning Teckal judgements as the enterprise continues to have local authority representation.
8	Funding adviser and a director of a social enterprise.	Social Business	22	A business adviser for a social investment organisation with twenty two years of experience in the social economy sector as a Director, Trustee and adviser. The participant is experienced at working with policy makers, community organisations & social enterprises in designing investment readiness support programmes for financial products, based on successful practice in UK, Europe & USA and is currently an ambassador for a national social investment organisation.
9	Director of a social enterprise	Trading Charitable (BenCom)	5	The Business Development Director of a large NHS spin out social enterprise specialising in delivering public health and social care contracts. Alongside its contracting activities the participant's social enterprise runs a number of social businesses including garden centres, community cafes and childcare day nurseries. The participant is particularly experienced in the raising of finance for social business alongside the issues of governance in a stakeholder owned social enterprise engaged in the delivery of health services.
10	Chief Executive Officer of a social enterprise	Social Business	20	The CEO of a national, member owned business support organisation and is also an experienced business adviser with almost twenty five years' experience of working in a social enterprise at all levels. The participant is a well-known figure within the broader enterprise movement and wider government departments and is a regular media commentator, columnist and speaker on business start-up and small business issues.
11	Social entrepreneur	Social Business	14	A social entrepreneur and former, regional social entrepreneur of the year who is an experienced business adviser to social enterprises specialising in the areas of access to finance, business planning, product/service development, marketing strategy and other areas connected with growth challenges. The participant is a proponent of and experienced in the implementation of multi-stakeholder, multi-ownership legal structures for social enterprises.
12	Legal structure expert	Social Business	30	A legal structures and governance expert with over 30 years' experience providing advice to a range of organisation's and social entrepreneurs across the UK. Having worked both as a practitioner and an adviser, the participant combines in-depth knowledge of company, charity and trust law with forty years of engagement with the values and principles that drive the social economy.
13	Social entrepreneur, academic and legal structure expert	Solidarity	27	A social entrepreneur, academic and author with almost thirty years of experience in the social economy as a practitioner, academic, writer and activist. The participant has authored text books, academic journal articles and discussion papers on the topic social enterprise including the topic of legal structures. The participant is an expert, advocate and developer of multi-stakeholder, multi-

				ownership legal structure models for social enterprises.
14	Social entrepreneur, business adviser	Social Business	30	One of the founders of the Social Enterprise movement in the UK and was the manager of England's first Community Cooperative. The participant has pioneered work on legal structures, social auditing and licensing. The participant has introduced the concept of social enterprise to many countries in Europe, Asia and Africa alongside developing new practices in social enterprise governance and management.
15	Legal adviser	Private	3	A practice lawyer working in the specialist charities and social economy team at a national firm of solicitors where the participant advises charities, their trading subsidiaries, and social enterprises on legal, financial and structural matters as well as being a former charity trustee.

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3.7 Data Analysis

This section provides an explanation of the data analysis procedures and the six key themes developed through this process. The approach to qualitative data analysis was thematic analysis (Langdridge & Hagger-Johnson, 2009); Braun and Clarke, 2006; Fugard and Potts, 2015). Unlike other strategies or traditions associated with qualitative data analysis such as grounded theory (Glaser & Strauss, 2017; Strauss & Corbin, 1994, 1998), discourse analysis (Hepburn & Potter, 2006; Johnstone, 2018), narrative analysis (Riessman, 1993) and phenomenological analysis (Smith, Flowers, & Larkin, 2009) thematic analysis does not really have an identifiable heritage and can therefore be adapted to suit different philosophical traditions. The approach to the development of themes that I employed in this research can be found in many approaches to qualitative data analysis and can be considered to be a general inductive approach to the evaluation of qualitative data (Thomas, 2006). This general inductive approach (Figure 3.1) allowed me to make interpretations through the detailed reading and rereading of the data in order to develop new theories, concepts and models from that data.

Initial reading of text data	Identify specific text segments related to objectives	Label the segments of text to create categories	Reduce overlap and redundancy among the categories	Create a model incorporating most important categories
518 pages of research interview transcripts	935 segments of text	31 First order Categories	17 Second order Themes	6 Theoretical Building blocks

Figure 3.1 Data reduction approach, adapted from Thomas (2006).

The "intensive examination of a number of strategically selected cases" (Johnson, 2004, page 165) that I undertook involved "the systematic examination of similarities within and across cases" that allowed me to develop concepts, ideas and theories in relation to social enterprise structure selection Pascale (2011, p. 53).

The enquiry began with an area of study (social enterprise structure selection) and as the study progressed I was able to make interpretations of the data in order to develop findings from it, further refine these findings to create themes and finally develop a model for social enterprise structure selection. A systematic approach to coding and classification was followed in order to draw clear linkages between the research objectives, the data and the research findings in a way that is both transparent and defensible. Audio interview files from the fifteen respondents across a range of social enterprises, social enterprise support organisations and those providing business and/or legal support to social enterprises/entrepreneurs were transcribed verbatim into Microsoft Word files and data analysis was begun simultaneously until saturation had occurred (Glaser & Strauss, 2017). I judged that saturation had occurred when further interviews were no longer increasing, or changing the range or depth of ideas related to the research objectives that had not already emerged (Jensen & Laurie, 2016) and took this to be an indication that data replication or redundancy had occurred (Bowen, 2008).

The audio files recorded during the interviews were initially transcribed into word documents and then interview audio files were listened to several times, and

each edited against the transcribed text (McLellan, MacQueen, & Neidig, 2003). This process enabled me to be fully engaged with the data and ensure the accuracy of the transcript alongside the correct representation of the research participant's stories or the correct technical language of organisational structures within the narrative. This process was supported by the creation of research memos (Corbin & Strauss, 2008) and diagrams before, during and after the interview sessions. These memos provided an opportunity to record interesting issues, ideas, stories, web sources, people, papers, reports etc. At this time, notes of developing ideas such as the notion of associated legitimacy in relation to certain structures, the decoupling of espoused practice from that associated with a particular social enteprise and the emergence of new multi-stakeholder structures such as the Social Enterprise Limited Liability Partnership (SELLP) were noted. These memos were transcribed, loaded into the NVivo software package and reviewed alongside the interview transcripts at different points during the analysis by way of reminder and as part of the analysis.

In respect of data management and analysis, I considered two, a purely manual approach of "cutting and pasting" quotations onto sections of wallpaper or a computer-aided approach using specialist Computer Assisted Qualitative Data Analysis Software (CAQDAS). The pros and con's concerning the use of CAQDAS have previously been debated by researchers; with speed and ease of use been cited against loss of context and philosophical position (Atherton & Elsmore, 2007). Having explored the benefits and drawbacks of CAQDAS I concluded that due to my earlier close contact with the data that the ease of use and speed advantages were the most compelling despite the additional consideration of having to learn to use a new software package (Basit, 2003; Baugh, Hallcom, & Harris, 2010) and elected to use the Nvivo software package to manage the research data. Helpfully this software was available free from the University alongside appropriate training and support.

In following Thomas (2006) all of the research transcripts and memos were imported into the Nvivo software package simultaneously whilst the data collection was in progress. The interview data was collected from fifteen participants that represented two major groups, those who could be classified as social entrepreneurs and those who provided advice to social entrepreneurs. In

developing my data structure I had planned to split the data into two separate and discrete folders. However, in practice, many individuals expressed viewpoints from both perspectives as they had experience as both entrepreneurs and advisers so the initial decision to split these into two separate Nvivo folders was abandoned.

Following step one the preparation of data, the next step (2) of identifying specific text segments of text related to the research question was begun. In this search of the data, five hundred and eighteen pages of transcribed interviews were reviewed resulting in nine hundred and thirty five segments of text being identified as holding significance to the research question (Figure 3.1). As presented by Thomas (2006) and mentioned earlier, the general inductive approach shares many features with other similar approaches, particularly grounded theory (Glaser & Strauss, 2017; Corbin & Strauss, 2008). However, as the general inductive approach to coding suggests, I began to develop themes and categories that were most relevant to the research objectives and so the findings presented my interpretation of what I deemed to be the important themes from the data.

In following Thomas's (2006) second and third steps, I created a number of *a priori* categories drawn from readings of the data alongside the research objectives and then began to label sentences, phrases and paragraphs based on my interpretation of the raw data to the initial *a priori* categories whilst simultaneously creating new categories as needed. The *a priori* categories generated at this time included; definitions of social enterprise, access to advice & support and governance related issues. In the creation of these second-order themes from the nine hundred and thirty five segments of text as I began to further develop my emerging understanding of social enterprise structure selection. At this point, there were some overlapping and redundant categories, so in following (Thomas, 2006) I began the next stage (Step 4) in beginning to reduce the overlap and redundancy amongst categories. Where some of the categories demonstrated a link or relationship to other categories these were merged i.e. 'funder recognition' and 'market recognition were merged into 'the category of 'social enterprise as a badge of legitimacy' in the hierarchical category system within NVivo.

This coding process sought to identify patterns in the data that captured the qualitative richness of social enterprise structure selection (Boyatzis, 1998) bringing out issues such as the decoupling of practice from that expected for a given structure as social entrepreneurs sought workaround solutions to enable them to control decision making or access profits. Once this initial coding process was complete a further stage of corroborative review (Crabtree & Miller, 1999) was undertaken in that all of the previous stages were reviewed and scrutinised alongside the memo created for each interview to ensure that the themes that emerged were representative of the earlier data analysis and code assignments. This corroborative phase aimed to avoid the unconscious 'seeing' of data that I expected to find (Fereday & Muir-Cochrane, 2006). The interplay between coded text, themes and clusters of themes and the research question continued through several iterations of review and decision on what was more or less important in the data and in relation to addressing the research question. Once this corroborative phase was completed the analysis moved on to a model developing phase (5) incorporating the most important categories (Thomas, 2006). From this final stage, I arrived at six theoretical building blocks from the most important second-order themes from which I was able to build a model for social enterprise structure selection.

At this point the size of the data was still considerable and some of the categories that were not assigned to the main themes such as political & world views, regulators and drivers of social enterprise creation were put aside for further research at a future time as they did not contribute significantly to the answering the research question. Figure 3.2 below illustrates the data structure during the three stages of analysis.

First order categories

1. Contested definitions of social enterprise
2. Legal structure and perceived legitimacy
3. Promoted & privileged structures
4. Kite-marks and privileged legal structures
5. Funder recognition of legal structure
6. Market recognition of legal structure

7. Asset locks
8. Use of profits
9. Access to borrowing
10. Access to Investment
11. Access to Grants
12. The role and attitude of funders
13. The generation of trading income
14. The role of start-up & operational planning
15. The role of social audit

16. Confusion over legal structures amongst stakeholders
17. Perceived complexity of legal structures
18. Structural pluralism
19. Emerging new models of social enterprise
20. Exploitation of structural flexibility
21. Work around solutions

22. Commissioning of public services driving new structures
23. Increasing competition with private sector
24. Promotion of the CIC as the social enterprise legal structure
25. Govt. introduction of new legal forms for social enterprise
26. Non-interventionist stance of social entrepreneurs

27. The role of business advice in legal structure selection
28. The role of legal advice in legal structure selection
29. Sources of advice for social entrepreneurs
30. Availability of advice for social entrepreneurs
31. Quality of advice

32. Ownership – degree of retention or sharing
33. Decision making – degree of retention or sharing
34. The role of stakeholders & stakeholder engagement
35. The role of boards & board related issues
36. Risk and risk management

Second order themes

1. Definitions of legitimate social enterprise
2. Promoted and privileged structures
3. Recognised and accepted structures

4. Use of profits
5. Funding & Funders
6. Business planning & business model

7. Practitioner understanding – benefits and drawbacks of available models
8. New models (multi-stakeholder, multi-ownership)
9. Implementation and processes of legitimation

10. Trading collaboration, joint ventures & mergers
11. Emerging new models of social enterprise

12. Importance of advice (Business, Legal and Governance)
13. Sequencing and integration of advice
14. Access to high quality advice

15. Approach to ownership
16. Approach to decision making
17. Role of stakeholders

Theoretical building blocks

1. Structural legitimacy and privilege through kite-marks
2. Funding & Funders (Int. & Ext. influences)
3. The nature of legal structures - pluralism, confusion & complexity
4. New collaborative legal structures
5. Advice related to legal structure selection
6. Entrepreneurial Orientations toward organising

Theoretical building blocks

1. Entrepreneurial Orientations towards organising
2. Funding & Funders (Int & Ext influences)
3. The nature of legal structures - pluralism, confusion & complexity
4. Structural legitimacy and privilege through Kite-marks
5. Advice related to structure selection
6. New collaborative legal structures

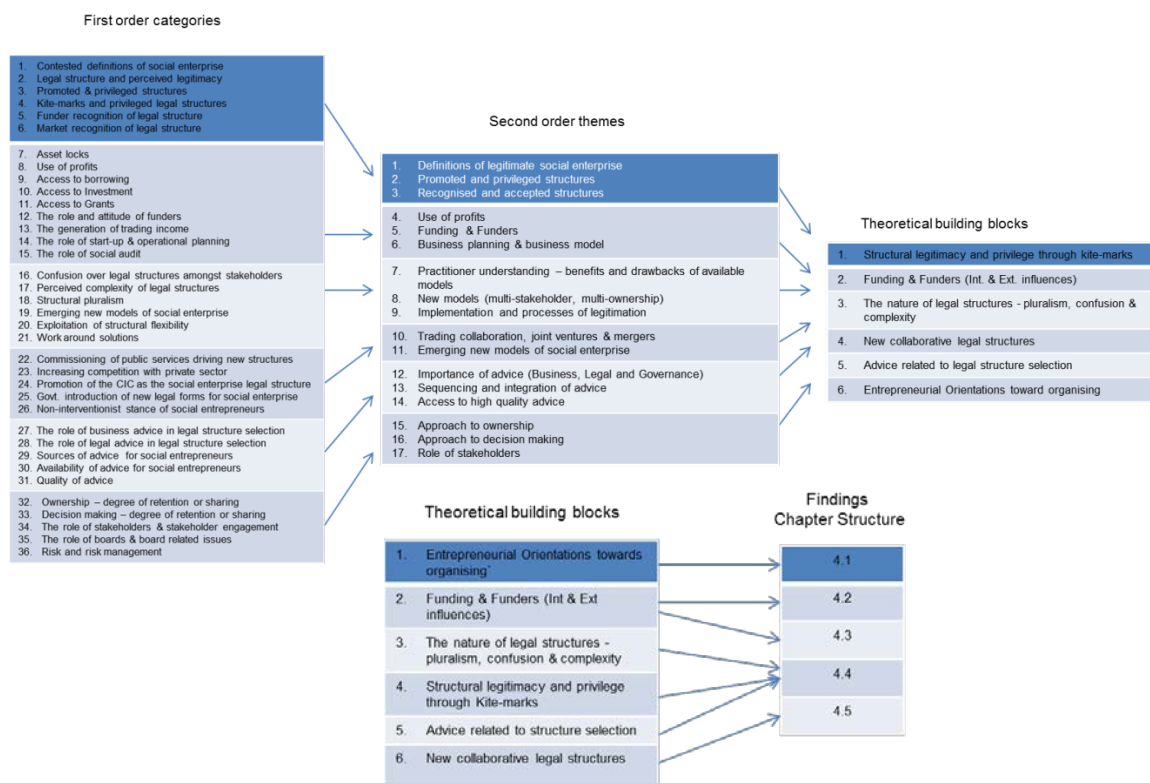Findings Chapter Structure

4.1
4.2
4.3
4.4
4.5

Figure 3.2 Data structure and formatting of the Findings Chapter

Figure 3.2 also shows how the categories, themes and model building blocks were developed and then sequenced into a logical structure for presentation in the Findings Chapter.

3.8 Quality criteria

In addressing the appropriate quality criteria for this study, I have considered it important that this work is designed to hold relevance and utility for the professional practice of social entrepreneurs and their advisers. I have therefore considered two key factors in respect of quality; my "theoretical sensitivity" as an experienced practitioner in the field of social enterprise and a regional policy maker (Strauss & Corbin, 1990, p 42) alongside stakeholder triangulation of findings with practitioners and other researchers active in the field (Thomas, 2006).

Theoretical sensitivity refers to the personal qualities of the researcher and relates to an awareness of the subtleties of the meaning to be found in data. This awareness involves the ability to give meaning to data, the capacity to

understand, and capability to separate that which is pertinent from that which is not. I have seen theoretical sensitivity as important as the credibility of the study relies in part on the confidence that readers have in my ability to be sensitive to the data and to make appropriate decisions in my research activity (Eisner, 1991; Patton, 2002a). Following Strauss & Corbin (1990) I argue that my theoretical sensitivity comes from a number of sources, including my professional and personal experiences as an experienced practitioner in the field of social enterprise and a regional policymaker and from which I lay claim to a certain degree of theoretical sensitivity. However, I make a limited claim on quality through the demonstration of skills in qualitative research (Patton, 2002b). As suggested by Lincoln & Guba (1985) I have also sought a degree of quality assurance in the research design through conducting stakeholder checks in order to seek a degree of triangulation from the research participants in the collection of the data alongside a degree of testing of my interpretation of the views and experiences that they conveyed during the data collection (Thomas, 2006).

3.9 Ethical issues

In conducting the research, I sought through the actions discussed below to "preserve and protect the privacy, dignity, wellbeing, and freedom of research participants" (Academy of Management, 2006, p3). Furthermore, in considering these actions I have sought to maintain my own strong ethical stance, in the belief "that ethical precepts should never be broken" and that "Infractions of ethical principles are damaging to social research" more broadly (Bryman, 2016, p. 123). Whilst taking this stance I also accept that a degree of judgement or principled relativism (Fletcher, 1966 as cited in Bryman & Bell, 2011) may need to be exercised in achieving open and honest discussion with research participants; for example, Gans (1962, as cited in Punch, 2004) suggests that if researchers are completely honest with participants they may try to hide attitudes that they consider undesirable, and so may be dishonest. Accepting this view, the British Academy of Management Code of Ethics (The Academy of Management, 2006) followed and which required an honest approach that ensured that informed consent was secured. The actions that I have taken in this research concerning ethical issues were primarily concerned with the

protection of data, the obtaining informed consent, the accuracy and interpretation of transcripts and the reporting of interviews. In terms of the handling and protection of either personally or corporately sensitive information, all of the electronic data collected (interview recordings and transcribed documents) were stored on password protected flash drives and hard copies locked in a secure filing cabinet. As was expected, several of the social entrepreneurs interviewed asked for and were provided with verbal confirmation of confidentiality in addition to the statements provided in the briefing documents sent to them prior to the interview commencing. Obtaining 'informed consent' was a key activity undertaken before the interviews took place with the selected participants. In relation to informed consent, I sought to establish that the participants had understood and agreed to take part in the study having considered the aims of the research and the methods to be used. Alongside this, I ensured that the participants had been made aware of any likely conflicts of interest, any institutional affiliations on my part, the anticipated benefits, potential risks and that they had a right to refuse to participate or withdraw consent without reprisal (Harriss & Atkinson, 2009). All of the participants taking part were provided with a written and oral briefing such that they are able to understand the nature and likely consequences of taking part in the research in consideration of both themselves personally and their enterprises. In relation to the accuracy and interpretation of transcripts; for which I was ultimately responsible, I sought to confirm both the accurate transcription of conversations and consequent interpretation by sharing the results of the research with the participants. In terms of privacy and confidentiality; I adopted an approach to the reporting of interviews in which only aggregated and anonymised data was shared.

3.10 Chapter summary

A case-based research methodology has been advanced alongside an interview based data collection strategy in which participants were selected in order to provide information-rich cases to study in depth (Patton, 1990) and that represented a heterogeneous range of characteristics and contexts related to the research question (Saunders, as cited in Symon and Cassell, 2012).

A thematic approach to data analysis (Langdridge & Hagger-Johnson, 2009); Braun and Clarke, 2006; Fugard and Potts, 2015) has been presented and explained alongside the adoption of the five- step, general inductive approach to the evaluation of qualitative data posited by Thomas (2006). How this process was applied in order to reduce five hundred and eighteen pages of research interview transcript down to nine hundred and thirty five segments of text in order to develop thirty one first-order categories, seventeen second-order categories and six theoretical building blocks has been presented in detail. Following my aim for the study to hold relevance and utility for the professional practice of social entrepreneurs and their advisers the quality criteria deemed to be appropriate for this study have been presented in relation to both my theoretical sensitivity (Strauss & Corbin, 1990) and through my triangulation with research participants in the collection of the data alongside testing my interpretation of the views and experiences that they conveyed during the data collection (Thomas, 2006).

Ethical issues have been considered in order to "preserve and protect the privacy, dignity, wellbeing, and freedom of research participants" (Academy of Management, 2006, p3). Procedures followed, ensured that participants received sufficient information and briefing for them to give their informed consent to take part and that their data would be protected and recorded accurately.

Chapter 4: Findings

Introduction

This research focuses on understanding the influences acting upon the selection of structures for social enterprises as well as the resultant implications of those influences. The aim of the research is to develop a model with which to assist social entrepreneurs and their advisers in that selection.

In addressing the research question; "What influences social entrepreneurs to adopt particular social enterprise structures and why?" this chapter will present the findings the research within the context of the six themes elaborated in Chapter 3 by examining the complex interplay between the internalised influences on structure selection and those influences originating within the external social enterprise context. In exploring these influences the associated tensions faced by practitioners in selecting an appropriate structure will be examined alongside the actions that are taken by social entrepreneurs in resolving those tensions.

4.1 Entrepreneurial orientations towards organising - ownership and decision making.

4.1.1 Orientations towards ownership.

The issue of ownership is a fundamental consideration for the research participants as it concerns who in law would actually own the enterprise, particularly any profits or other material assets such as, intellectual property, stock, buildings and equipment. Alongside the orientation of social entrepreneurs towards ownership their related orientation towards decision making is presented by research participants as very significant influence acting upon structure selection. This decision making influence relates equally to both social entrepreneurs who expressed a willingness to share ownership and/or decision making and those that wished to retain it.

Ownership of the social enterprise influences structure and this was consistently identified as an important consideration by all research participants for their own enterprise(s) and/or those for whom they had provided advice. The two

positions expressed by research participants concern the ownership of the social enterprise either by an individual or small group of founder social entrepreneurs or by a broader mixed community of stakeholders. The influence of shared ownership upon structure selection is illustrated by the views of a social entrepreneur who sought a shared ownership structure in the form of a Community Benefit Society (CBS) that was formed to preserve a local public building of significant historical importance:

"….there was also quite a feeling that it had to be in community ownership and that was an important element of the whole project, the community ownership side of it". Business adviser.

Additionally, a director of a social enterprise formed by NHS Primary Care Trust (PCT) staff under the Right to Request Programme[1] and adopting a CBS structure expressed a strong orientation toward shared ownership in order to facilitate accountability to stakeholders by involving them directly in the delivery of public services:

"I would argue that in our case we're much more directly accountable to our service users. We've got about 1,000 members at the moment. ……..

if they don't like the way the management of [organisation] are running these services here we could be voted out by the majority. That kind of accountability via the structure of the organisation does not exist in public services". CBS Director.

However, the influence of ownership is equally expressed by research participants as the wish for singular or limited ownership by social entrepreneurs. Here, in the quotations below, two legal advisers explain the viewpoint generally expressed by their clients with regard to the influence of ownership:

…..a growing need to retain ownership or a willingness to share ownership? "No, an unwillingness". Legal adviser.

Top three issues for clients….."One, control and not relinquishing control". Practice lawyer.

[1] The Right to Request was established under the Transforming Community Services programme, which required Primary Care Trusts (PCTs) to transfer their direct services (provider element) to another organisation (Department of Health, 2009).

There was a higher degree of influence towards shared ownership exhibited by social entrepreneurs who were involved in social enterprise activity concerning: delivery of public funded services direct to service users; a community or publicly owned asset and; where funding was sought from the public. Here a Director of a CBS formed to preserve a local building of architectural and historic interest explains:

"it [the social enterprise] should be, grounded in community interest and the protection of that community asset by the community owning it". IPS Director.

"We're a BenCom, a community benefit society, and …. they [CEO and the founder directors] chose that structure instead of the standard, which would be a CIC, community interest company, because of what they wanted to do with membership: it's for involvement, engagement of service users and staff and accountability". CBS Director.

A higher degree of orientation towards individual ownership and control was exhibited by what adviser participants expressed as their more "entrepreneurial clients" as they privilege profit over social good. The social entrepreneurs demonstrating this orientation were seen as more likely to adopt governance arrangements that promote the maximisation of wealth creation for the owners of the enterprise over purely social good. The quotation below from a business adviser participant expresses the common viewpoint of their clients:

"Control and ownership comes back time and time again and I would say in the main the sort of people we're working with are quite entrepreneurial, or have aspirations to be entrepreneurial". Social entrepreneur & business adviser.

The orientation towards control appeared to be greater in the case of those research participants who expressed views concerning their enterprise that suggest they wished to be personally rewarded by their venture or who were more tightly focused on business logics in order to deliver social good. Here two social entrepreneurs explain their orientation:

"….so we were limited by shares right off the bat because it was – we wanted it to feel as entrepreneurial as possible so we knew that we were picking a limited by shares company". Social Entrepreneur.

"CIC structure allowed us to still run it as an entrepreneurial type business whereas many of the other structures, charitable structures and what not you put on it really don't lend themselves to running it like a regular business. Social Entrepreneur.

Additionally, the social entrepreneurs noted above also tended to exhibit classic entrepreneurial traits; particularly a central locus of control:

[Researcher] "So…… the entrepreneur control aspect was really important to you". [Social Entrepreneur] "It was very, very key".

Social entrepreneurs who expressed an orientation towards control through ownership also exhibited tension surrounding the doing of social good and whether this should be locked into the enterprise through the structure selected:

"You can trade and be a business, and if you've made lots of money, of course you can give it away to whatever you want……Then you have the control. The question for you is: do you want to enshrine that in your very fibre and make it a legally binding aspect of what you do?" Social entrepreneur.

However, some further tension was expressed by this type of social entrepreneur in relation to the need to deliver broader social outcomes and involve a broader group of stakeholders as they articulated an orientation towards a form of 'corporate philanthropy'. Here a practice lawyer sums up the views of many of his clients:

"I want to benefit the community but that is, that shouldn't be at the expense of me not being able to control either the risk to me or my ability to be able to take the investment that I put into this back out again. So I think you are still seeing those two competing interests of being able to want to provide a genuine social benefit as well as protecting the private reason and rationale as to why somebody invests in the first place". Practice Lawyer.

4.1.2 Orientation towards decision making.

Social entrepreneurs and their advisers were often preoccupied with decision making pressures and its connection to the degree of control that they might retain. The nature of the viewpoints expressed by the research participants varies from those viewing plurality of control as a very positive aspect by those adopting governance arrangements that emphasise sharing to a more singular viewpoint expressed by those adopting arrangements with more control or a mix of approaches through hybrid type arrangements. A strong orientation towards both shared ownership and shared decision making is expressed below by the Director of a CBS who explains that this is seen as a very positive, desirable aspect of their structure:

"…sometimes some very difficult questions are asked at the AGM, and if they are not responded to then that management team could be voted out. So, there are some very positive aspects about that structure". CBS Director.

In contrast, we have an expression of the equally strong influence in favour of singular or restricted decision making as expressed below in the comments made by a practice lawyer and the founder of a CIC limited by shares:

"the statement that I would quote more often than not is that people see their enterprise as their baby and I completely – completely get that and so why would they therefore relinquish control of it to a genuinely independent board of directors? There's still this sort of feeling of – of fear. Well if I – if I'm running this thing I feel nervous about allowing an entirely independent board to oversee my work". Practice Lawyer.

"We were running a business. This isn't a sort of pocket money that we're trying to give away and we want people's perspectives. We're running a business; so I think the [CIC] structures were a hindrance because it was – you feel as if you've got to put these people in positions of power when what you actually need to do is to have conversations with people"

"I mean that's why we set up an Advisory Board because we didn't want people being Directors of the company. But why would they be Directors of

the company anyway? I mean these are people who don't know anything about business". Social entrepreneur.

In the contrasting viewpoints above we can perhaps begin to see the connection between the investment of the social entrepreneurs own funds or sweat equity and their orientation towards controlling or retaining ownership and decision making that are not found in the public sector spin-outs or public heritage social enterprises.

For some social entrepreneurs choosing to adopt a structure with more democratic governance arrangements, ownership and decision-making processes, the desire for "a feeling of ownership" was still an important orientation for founder social entrepreneurs when financial ownership may not be the preeminent orientation. Here an experienced social enterprise adviser explains the influences on structure selection for a client seeking to balance ownership, control and a need for legitimacy through structure:

"….so it was a CIC limited by shares that was the final conclusion essentially. They weren't particularly interested in a big exit strategy but they wanted to have some feeling of ownership and they wanted the decision-making themselves but they wanted to be transparently a social enterprise". Business adviser.

Stakeholder engagement is a key challenge for all social enterprises and therefore an influence upon the selection of all social enterprise structures but this may act as a greater influence on the selection of certain structures such as the [2]Industrial Provident Society (IPS), Community Interest Company (CIC) and trading charity that involves a broader community of stakeholders in their decision making. The challenge of stakeholder engagement is illustrated by the quotations below from the business adviser to a community benefit society funded by a community share issue and a director of a health service spin out:

"you've got 500-odd shareholders owning the organisation and they all have a vote and they can vote people on to the Board and it's been one of the

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[2] The IPS legal form was replaced in the Co-operative and Community Benefit Societies Act 2014 by the co-operative society and the community benefit society. The term IPS is used in this thesis as it was used by the research participants.

biggest AGMs I've been to, the first AGM. There were 100 people at the first AGM". IPS Director.

"….involvement from the membership, active involvement. That's actually a much more difficult sell because people want to know why they should be involved in helping to run a service that they maybe think should be there anyway". Business adviser.

Many of the social entrepreneurs and leaders of trading charities expressed concerns for the effectiveness of their governance arrangements, particularly those with more democratic models. The key concerns expressed being related to the skills, attitudes and behaviours of their boards. The heart of the concerns expressed by research participants in this research broadly follow the enterprise's ability to balance business decision making with the creation of social impact and included issues related to attitude to risk, business skills, and understanding of the social mission:

"The speed at which a Charity Board makes a business decision is dictated by their reluctance to make business decisions and that can cost considerably. It also has an effect on how they would be prepared to perhaps take an investment loan to start up a charitable business, social business activity." Charity Chief Executive

"…strangely enough the CVs on paper had very little to do with how effective they were at contributing at board level – almost the opposite: the people who looked great on paper were not necessarily great helping the board to make good decisions and do their job as a board." IPS Director

"you've got people from the third sector, so charities. Charities tend to be very risk-averse. They have a board trust where again it's like, "What have you done with this money?" and it's almost accusatory. Where in reality if you're going to find anything new, if you're really going to innovate in services some of the things you try will fail"…..

"….with people from the private sector they're often a lot more understanding of how to properly assess risk and how to push projects forward, but they may not understand some of the constraints of the landscape that you work within, such as the way things are funded and how you have to operate.

Sometimes they appear to struggle with the balance of social impact versus making a surplus in our case because we're not-for-profit". IPS Director.

In a similar vein to that of the influence of decision-making above, and in seeking to relieve the tensions surrounding the role stakeholders and boards in decision-making some experienced social entrepreneurs are more likely to avoid structures that are associated with what they perceive to be onerous governance arrangements, hence influencing their selection of structure:

"So what I would do differently though on a new venture, which I am doing with xxxxx is simply creating a business model, showing it to everyone that works for us and saying, "This is how the money gets distributed and this is how we're going to do our reporting so you can see it gets distributed." I've created a limited by shares company, at the moment only two of us hold the shares…". Social entrepreneur.

The type of governance model associated with a particular structure is an influence over that structure's selection. Additionally, this governance model influence is particularly strong for some serial social entrepreneurs or chief executives of social enterprises; particularly those that have experienced difficulty in the past in assembling effective boards with an appropriate skills mix, balanced attitude risk and ability to support the management team in making decisions. The experience of a charity chief executive looking to an alternative structure after experiencing tensions with their board serves to illustrate this alongside the resolution to that tension through the pursuit of alternative structure choices:

"I had a tension running a charity as Chief Exec with a Board that at one point, this was 2008, I had a – I actually had a venture philanthropist that had come along, really interfering, I have to say and didn't get it at all….. and they put in an interim Finance Director who said, "You don't really know what you're doing." I said, "Well I think we know what we're doing, it just takes a little bit of time to produce management accounts." "Oh no, we want this." Put that in place and this was a Charity Finance Director who just didn't understand what we were doing, told the Board we were insolvent and the Board went off it, closed me out, brought in a specialist to help us …."

"I can see why you're a CIC because you don't want to go down that path again….."

"Yeah, and it's some of that stuff that kind of lets you, you need to have a flexibility that just doesn't exist in the structures at the moment". Social Entrepreneur

In relation to decision making considerations, adviser participants noted the importance of the sequencing of decision making arrangements such that, as is suggested later in this thesis concerning the sequencing of business planning, that consideration of the ownership and decision making orientations of the social entrepreneurs should precede the selection of a structure as illustrated by a very experienced social entrepreneur and business adviser:

"……decision-making is a process and it's not a structure and a lot them think structure first and think that that's how they deal with governance, that they look at a structure. You don't, you look at what decisions need to be made and the processes that you need and the people you need for different types of decisions, and so you're looking at a much more flexible thing." Social entrepreneur & business adviser.

4.2 Influences concerning access to finance: borrowing, investment and grants

Access to finance for social enterprises, particularly at start-up, influences the selection of particular structures. The nature of the influence lies in the relationship between some structures and the potential barriers they pose to social enterprises in obtaining finance through borrowing, investment or grants as this is often a critical aspect at start-up or during business growth. Here the founder of a CIC limited by shares expresses the issues he experienced in relation to attracting investment into a CIC structure due to the asset lock and the limits on dividends payable to investors:

"that asset lock for CICs is the main reason you cannot draw investment into CICs. I mean I got investment but it was from quasi funding places, it wasn't like – and I got a loan because they were going to back the building but nobody was going to back the business because there was no – I couldn't

even get the Ethical Property Company to invest and basically he told me straight out, the Chief Exec, he said, "You've got an asset lock, so I've got to bet on your business and there's no way I can do that. I mean I need to have something to back it up." Social entrepreneur.

Further, a practice lawyer expresses the same concern with regard to investment into the CIC structure:

"So we have seen circumstances where people have set up CICs, invested their cash but not realised actually getting that back out may be tricky depending on how they've actually invested it." Practice lawyer.

The distribution of profits for the benefit of the founding social entrepreneur(s) is a major influence on structure selection and this is closely linked to the ownership issues discussed earlier. The nature of this influence concern the same restrictions on profit distribution as that for equity investors and this is expressed here by the founder of a CIC limited by shares:

"like the structure of who decides how much money the entrepreneurs get back from the project. Why should it only be 5%? I mean hell I've sweated blood in shit loads for this and I get 5%? I mean quite honestly it makes me want to say, 'fuck you', basically". Social entrepreneur.

"I mean for me to get back my investment I have to sell the business to get my investment back and even then I'm not sure I'm going to get anywhere close to my investment back. Forget about profit on my investment or interest on my investment – I mean I've got half a million in, to get that out at 5% a year of profits, how long do you think it would take me? I'd be dead before I'd get all of that back". Social entrepreneur.

As with the influences related to social entrepreneurs exhibiting strong entrepreneurial traits towards more singular or limited forms of ownership, what seems to emerge here in respect of the distribution of profits is a similar type of influence towards structures that enable this distribution of profits for the benefit of the social entrepreneur(s). A further influence, as expressed here by the founder of a CIC who is identified as having strong entrepreneurial traits questions the restrictions on profit distribution imposed within the CIC structure:

"This is not an entrepreneurial style of thing because why wouldn't it be 50:50. Basically, you have to be an entrepreneur and be a monk. It's like actually, I'm going to give you 99% of everything I have and then it will go to the community; well that's really insane. I mean that's just totally insane. It's totally insane to me". Social entrepreneur.

The limits on dividends that can be paid by CIC's have now been amended from October 2014 when the 20% limit on dividends per share was removed easing this issue to a degree so it might be argued reducing this particular influence despite the maximum aggregate dividend limit being set below 35% (Office of the Regulator of Community Interest Companies, 2016).

Further to the influence presented above, the asset lock within certain structures influences structure selection as funders are orientated towards the assurance this gives in relation to the protection of what are often public assets or funds that are provided for the social good. Here a participant who is a director of an NHS spin out IPS describes how the asset lock in their structure provided a mechanism for protection against acquisition during an approach by a potential private sector competitor. Additionally, this quotation as well as explaining the influence of a legal asset lock on structure choice it is also perhaps indicative of a broader lack of understanding of social enterprise structures amongst the private sector more generally:

"There's an asset lock. There was a conversation a while ago where a large provider of health services came for a chat with us and they were very interested in what we were doing and they were going to buy us….. We said, "You can do, but whatever you want to pay your share is only worth £1". ((Laughter)) They really struggled. They obviously didn't understand the structure or what we were. They'd never heard of social enterprise or certainly hadn't googled it, so they weren't quite getting that." IPS Director.

In contrast, research participants suggested that legal asset locks can be circumvented or avoided and that voluntary asset locks can easily be amended or deleted with the strength of the enterprise's governance model being the key determinant factor. Here, the experiences of two serial social entrepreneurs suggest that experienced social entrepreneurs or their advisers might be less

influenced away from legally asset locked structures as they know that it is possible to avoid the restrictions placed on the use of assets in these structures:

"I don't think the asset lock works anyway. Any clever person could pull it apart"

"Yes, there's loads of ways around it, loads of ways around...... I mean I could sell – if I were minded to, you could sell that asset and if there was any profit left over, and at this point there wouldn't be, but if I sell the asset and there was any profit left over then I could create a company that helps entrepreneurs in bad parts of Leeds and just pay myself to go round and advise these people everywhere". Social entrepreneur.

"The asset lock in the community interest company, so the asset lock, you're not allowed to dispose of money or assets at less than market value, and if the company is wound up, that can't be distributed amongst members and it has to go to another asset lock body. Nearly all the CICs that I deal with have got a handful of directors who are on the payroll, so if the business is going down the hill, they simply carry on paying themselves until the bank account is empty". Social entrepreneur.

Significant tensions exist for social entrepreneurs seeking to retain ownership of their social enterprise when this internal need for ownership meets the need for external grant funding, as those structures that support retention of ownership almost always preclude access to the grant funding needed. This tension is summed up in the quotations below from a legal adviser as they describe the social entrepreneur being caught between two opposing influences:

"So the social entrepreneur comes back and he says, "Does that mean I've got to share ownership with some other people?" to which I say yes, and they say, "I don't want it." So I say, "You have to make a choice. Hang on to your sole ownership of this project, that's fine, you have to get external funding and finance it yourself, or put up with the fact that you're going to have to essentially give your baby away to an organisation in which you have a minority stake and qualify for funding." Legal adviser.

As we have seen earlier, the orientation of the social entrepreneurs to ownership and decision-making may exclude them from grant funding. However, this exclusion also acts from the counter position with social entrepreneurs intentionally choosing structures that would restrict grant funding as their business model is designed to drive sustainability solely through trading activity:

"we're a CIC limited by shares and I did that very deliberately because I didn't want to use grant funding, you know, we kind of live and die by winning contracts and finding income generating methods". Social entrepreneur.

4.3 The orientation of social entrepreneurs towards government policy.

The orientation of some social entrepreneurs to government policy may exert a significant influence on their structure selection. Social entrepreneurs are increasingly engaged in the commissioning of public service contracts in competition with the private sector as the government continues to drive its civil society agenda. In response to government tender requirements and competitive pressure from the private sector social entrepreneurs are beginning to seek innovative new ways to combine their structures in order to compete in a very competitive public service commissioning environment. The motivation for this response is explained by a research participant from a health sector social enterprise spin out:

"looking at solutions to the challenges to the sector from organisations like G4S Circle and Virgin Health, so billion pound organisations that come up, mop up contracts, operate at a loss, destroy the competition and then they have a virtual monopoly. And it doesn't end up in the best interests of the people using the services". IPS Director

Despite the significant role played by social enterprises in the delivery of public services the findings here, suggest that this was a significant issue for only one particular participant who was engaged in a health spin out social enterprise but did not feature as a significant concern for the rest of the participants.
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4.4 Influences concerning the prioritisation and marginalisation of structures.

The external influences identified in this research concern those of; legitimacy and privilege through definition, structural pluralism, confusion and complexity, external influences upon business planning, access to finance, the actions of funders, business & legal advice and government policy.

4.4.1 The construction and reconstruction of social enterprise; the influence of legitimacy and privilege through kites-marks and standards.

The perception by external stakeholders of the legitimacy of a particular social enteprise structures has a significant influence upon the selection of that structure by social entrepreneurs and further to this that those structures perceived as legitimate are more likely to be selected than those perceived as less legitimate by stakeholders. The legitimacy of a particular structures often emanates from the approval of that structure's related definition through a kite-mark such as the social enterprise mark (SEM) or promotion of that structure as legitimate such as the CIC. Below, a social entrepreneur expresses his concerns with regard to the SEM despite having been recognised by the practitioner community as social entrepreneur of the year and his enterprise regional social enterprise of the year:

"years down the line, after selecting this particular model, the Social Enterprise Mark came along and we were basically told, "You're not a social enterprise, you'll abide by the Mark…. the biggest minus side was the lack of recognition, so the regular business support community would treat us as a second-class citizen because we weren't really a proper business and some of the social enterprise community would treat us as a second-class citizen because we weren't a proper social enterprise". Social entrepreneur.

Alongside the concerns for legitimacy and recognition of their structure in relation to the social enterprise mark participants also expressed concern for the potential practical impacts upon their ability to trade and remain sustainable, and so presenting a potentially significant influence upon their legal structure selection. Here a social entrepreneur usefully illustrates the issues surrounding

the potential influences upon structure selection as he explains both the strategic and practical implications of adopting a structure that did not conform to the SEM criteria:

"what worried me about the Social Enterprise Mark. It's the only time, since setting it up, going back to being an entrepreneur, that's the only time that I've felt worried for the future, was when we went, "Oh right, we'd better get this Mark thing," and they said, "No, you're not." And strategically, I'm thinking that's a nightmare for us now, because if we can't call ourselves a social enterprise, or we become unable to tender for things or not on databases, then it's the beginning of the end ..". Social entrepreneur.

Further, and in a similar vein certain structures and their related definition are acknowledged by the research participants (both social entrepreneurs and advisers) as being presented as the accepted brands of social enterprise. Research participants consistently identified the CIC structure as the recognisably legitimate social enterprise brand and mention this as an influencing factor in their structure selection. The influencing factors that led a number of social entrepreneurs to adopt the CIC structure are illustrated in the quotes below:

"So we picked the CIC thing because it would – it reassured the Council that they were dealing with a legitimate social enterprise and that these private sector people weren't trying to just pull one over on them". Social entrepreneur.

" the title is Community Interest Company so it must be good guys". Social entrepreneur.

"…we grabbed the CIC moniker because we did not – I don't know if we didn't have a track record so much as we needed something to reassure public bodies that we – that somehow we weren't taking their money and running off." Social entrepreneur.

The higher the profile of a particular structure is within the social enterprise community, their funders, their stakeholders and in broader understanding the practitioner community the greater the influence will be upon its selection. This

is illustrated by the quotation below from a social entrepreneur reflecting on their selection of the CIC structure:

".... given the way the social enterprise legal structures were lorded as like these are like the golden children of business now, I'm not sure we would have been able to avoid being a CIC". Social entrepreneur.

Further to the earlier noted influence of the promotion and therefore legitimating of specific structures such that significant influence is exerted on the selection of those structures. Here the role of government policy is noted as a specific structure promoting influence:

"Now the Community Interest Company got so much promotion that they negated social enterprise activity that's been going on for so long".... Business adviser.

Again and in a similar vein, government policy also contributes significant influence in relation to the earlier findings concerning confusion and complexity. Here a legal adviser highlights the role of government in adding to structural pluralism and hence to confusion through complexity:

"they ploughed in with community interest companies when we already had community benefit societies, and then we already have four forms of charity, unincorporated associations, simple trusts, a charitable company and an independent society, and then they introduced the CIO. They just keep adding and there's a wealth of them and they never take any away! ((laughingly))". Legal adviser.

In relation to practitioner understanding of social enteprise structures a strong underlying tension exists in relation to practitioner orientation towards the rejection of what might be regarded as the externally, 'officiated' and promoted definitions of social enterprise alongside their associated structure choices. This political challenge is presented in a general sense by participants but was particularly strong in relation to the social enterprise mark in that research participants were expressly concerned with how the social enterprise mark definition had been arrived at and in turn challenged the democratic legitimacy of those seeking to control what is or is not a social enterprise. The quotations

below are illustrative of the sentiment expressed by many social entrepreneurs and their advisers taking part in this research:

"'Social enterprise is a grass root movement, it's continually changing, and we are not in control of that change." Social entrepreneur & business adviser.

" people will try and control it, which is one of the reasons why I had real difficulties with the Social Enterprise Mark, and with any sort of given definition". Social entrepreneur.

"It only matters when people like S. UK. [Social Enterprise UK] start to try and position themselves, and say, 'We are the voice of social enterprise in the UK.' And you say, 'Well, a) you're not, and b) your definition is undemocratically arrived at and narrow, and who the hell are you?" Social entrepreneur.

"I think it's that sort of… it's that feeling that – that what you are has been taken – the definition of what you are has been taken possession of by somebody else… doesn't seem to me to be overly helpful." Practice lawyer.

In addition to the general concerns expressed over kite-marked definitions a lawyer advising social enterprises on structure suggests that this may constitute an inappropriate influence on practice as social enterprises seek legitimacy and recognition through the selection of a social enterprise structure that does not fit their business or governance model, resulting in the distraction of the enterprise from its core mission:

"I think this sort of badging everything as either being quality or missing, or being outside the box is causing the organisation to then make decisions about what they are, what they live and breathe and then try and reconfigure what they're doing to fit within that definition, which inevitably takes them away from what they were trying to do in the first place." Practice lawyer.

In response to the tensions for practitioners surrounding the prescribed definitions and their associated structures this research identifies that some of these tensions are being resolved, at least in part through the pursuit by practitioners of dialogue with regulators and through the selection of other more generic structures such as the company limited by guarantee or shares:

"…..there were rigidities created by the Social Enterprise Mark that the practice community have partially overcome by working with the community interest company regulator, and also overcome by reverting back to like CLGs or CLSs; they just bypassed the rigidities of the CIC". Academic, social entrepreneur and legal structures expert.

In relation to the legitimacy of the widely accepted and promoted definitions of social enterprise, several social entrepreneurs and advisers expressed the view that rather than the influence of legitimacy by definition and kite-marked brand, what was much more important by way of influence was how social enterprises behaved in practice. In articulating this behaviour in practice, participants expressed referred to the creation of social value alongside the demonstration of higher order social values as an expression of their 'organisational identity' often measured by social auditing:

"I think the way in which our social audit works, for example, is that it works within the resources of the enterprise and it's geared mainly to do that, to make sure that the social enterprise remains on track to its own - not external – its values and its own principles, and that includes an annual review of the constitution, does it fit anymore? ". Social enterprise adviser.

Following this counterpoint of social enterprise as defined through an expression of behaviours and values, social entrepreneurs expressed strong views on the legitimacy of some social enterprises that had adopted the CIC structure:

"I've seen loads of people running under CIC or charities that run the most horrendous companies you can imagine. I mean everything from sexual abuse to just poor management to larceny – I mean all kinds of things going on in these companies all over the country, that I've seen, but because they have the moniker or whatever everyone thinks it must be a good company, it's okay."

" It's look, I'm a CIC; forget that I sexually abuse my employees. You know, look I'm a CIC; oh, I don't have any women in power positions in my company. Look, I'm a CIC but I'm the worst run – you know, I actually, I'm not stealing money but I waste so much money I might as well be stealing it, do you know what I mean?". Social entrepreneur.

4.4.2 The influence of structural pluralism, confusion and complexity.

Many research participants who were often very experienced social entrepreneurs expressed concerns over confusion surrounding structure selection is as a direct result of the complexity of the structures available to social enterprises as perceived by the research participants and that this represents a significant influence acting upon structure selection. Research participants consistently identified complexity as an influence in their structure selection either for themselves, their clients or both and the quotations below serve to illustrate the feelings expressed by most participants as to the complexity of structures available to social enterprises:

"they were essentially exploring their options and really it was struggling to understand all the complexities involved in it, and even then, when I came along and laid it out for them, it's like, "Oh, it's even more complex than we thought." Business adviser.

"One of the big issues was complexity. It's really straightforward, if you want to set up a limited company you can go buy it for £15 off the shelf tomorrow, a readymade set of rules and off you go, you're in business, whereas if you want to set up a community benefit society, you really do need to think about your rules! If you want to set up a CIC, there are different versions of a CIC you can set up". Business adviser.

"Yeah, I mean I think that's what I'm saying is the whole thing about setting up these structures is just ridiculous in my – and I think we've overcomplicated things massively, massively". Social entrepreneur.

Further to the influence of complexity identified by the research participants, this was matched by general confusion both in respect of the social entrepreneur(s) and the broader social enterprise community. The main areas of confusion identified concerned proliferation of structures available alongside the relative merits and drawbacks of each as expressed in the summary below by legal two advisers and a social finance expert:

"Yeah, and in terms of that, what you could say, the system within which we design legal structure is absurd, there are nine or ten different options: we've got

company limited by guarantee, CIC limited by guarantee, CIC limited by shares, a charitable company, CIO, Bencom , a cooperative society." Legal adviser.

".....you've got to know the whole range pretty intimately and frankly, unless you're a specialist, which I am, you're not going to. ....

there's no way you could have that depth of understanding. It's taken me 40 years!" Legal adviser.

"There are about ten, I don't know ten, there are a lot of legal structures you can go from and I find that a little bit confusing". Social finance expert.

"from the consumer's point of view, it's absolutely baffling and a lot of people get very anxious about whether they're picking the right structure or not, and equally, a lot of people get anxious when they discover they've picked the wrong one!" Legal adviser.

"people are actually confused about the options and the pros and cons of each, so I do a lot of handholding at that stage and explaining in plain English what the options are." Legal Adviser.

The confusion noted above and particularly in respect of the less fashionable, less promoted structures presents some very practical barriers to their selection as we find that the confusion noted earlier extents to broader stakeholder groups and their understanding of social enterprise structures. Here one of the business adviser participants explains the practical difficulty in seeking local business rate relief on behalf of a social enterprise client (who's enterprise was not constituted as a CIC) and the confusion over definitions of social enterprise in the broader stakeholder community:

"The conversation I had with somebody in a local authority about business rates, they give reduced business rates for charities and community interest companies. Okay, what about a company limited by shares where 51% or more of its shareholding is community, not interested? Not interested in the slightest, because they don't understand the difference, and I think that's where the problem is, where maybe the government has promoted certain models more than others, ..". Social entrepreneur.

Social entrepreneurs were often influenced in their structure selection by other social entrepreneurs, especially where those entrepreneurs were recognised as experienced or holding reputation within the broader social enterprise community. Respected members of that social enterprise community often shared incorrect, ill-informed views concerning structures and served to further compound the confusion surrounding legal structure selection as their views passed around networks of social entrepreneurs:

"I've had people come to me who actually have illegal structures that have been recommended to them by people who have quite a standing in the sector." Legal Adviser.

4.4.3 The influence of funder's attitudes towards social enterprise structures

As with the findings earlier in respect of the orientation of social entrepreneurs to the funding of their social enterprise acting as a significant influence on structure selection; findings also suggest that the selection of structure is influenced by the attitudes of funders towards certain structures. This direct influence from funders is well illustrated by the two quotations below from a business adviser and a social entrepreneur where funder attitudes have much more directly influenced the selection of the enterprise's structure and have in the two noted examples caused the existing structure to be changed completely:

"So we're working with somebody who started off self-employed, then formed a CIC, then Comic Relief desperately wanted to fund them because they were doing such wonderful work, got to the point where they were nearly at signing and they said, "Oh by the way you are a Charity aren't you?" So they ended up founding a charity and they are working between Scotland and England – so they now have the two directors both self-employed, they've got two CICs, one registered in England and one in Scotland. One charity at the moment registered in Scotland but they need another one in England because lottery want to fund them and they need that structure – how stupid". Business adviser.

"Sometimes funder driven decisions – I mean the reason I set my first social enterprise up as a charity – I set it up as a company limited by guarantee

because I wasn't interested in personal gain and the big funder came, Northern Rock Foundation came and said, "We want to give you three-quarters of a million pounds but we need you to be a charity," so what would you do?" Social entrepreneur.

The influence of funders on structure selection is also be expressed through the bidding criteria that funders such as the Big Lottery Fund and a number of Community Foundations put in place for their grant funds such that they exclude certain forms of structures (those that distribute profits) from bidding for them either directly or indirectly:

"you see and big lottery are funny about CICs limited by shares, as are Community Foundations, they have particular views". Social entrepreneur.

The potential influence of exclusion through grant application criteria is exampled below by the founder of a CIC limited by shares who reflects on not being able to access grant funding:

"I would have quite liked to have bid for was the RBS [Royal Bank of Scotland] Skills and Opportunities Fund, which is a grant …….. And we can't bid for that because our legal structure precludes us from bidding; so although it's grant I wouldn't have been using it in that grant sense if you know what I mean". Social entrepreneur.

Following on from the above findings concerning the influence of funders over the selection of structures, funders also exert a more indirect influence on legal structure selection as they influence the governance structures of social enterprises such that this may consequently influence the selection of structure. A number of research participants have noted this influence by funders over the governance model of social enterprises as funders seek assurances concerning governance structure, board make-up, skills and experience in order to support their due diligence process for their lending or grant funding. Here a lawyer from a specialist social enterprise legal practice explains the issue:

"So I can think of a number of – a number of charitable foundations that I work with whose due diligence focus up front will be to focus quite heavily on the governance of an organisation, understanding exactly who – what the make-up of that board is and also the skills within that board and understanding that that

is going to drive a more professional basis on which a particular social enterprise acts". Practice lawyer.

The issue of governance and the importance of this to funders in making funding decisions is supported here by a social finance expert who suggests that the two most important issues for social investors, in this case by social investment organisations concerns, leadership and governance of the social enterprise:

"I would say certainly leadership and governance. That's very much looking at the trustees and the management and the skills capacity of that, the board of trustees and senior management team." Social finance expert.

In a related sense, this issue of reputational risk in relation to investors also acts an influence on structure selection. In managing reputational risk investors seek to support particular governance models in order to mitigate the potential for reputational damage as they insist upon independent boards of directors, so influencing social entrepreneurs towards particular structures that promote this type of governance model:

"investors are increasingly nervous of its reputational risk of investing in organisations where poor governance within that organisation actually can then reflect very badly on the investor and sort of raise all sorts of reputational queries about why the investor has made that investment in the first place. It's usually the fact that when you think about this from the large problems that have occurred with charities and social enterprises over the past ten years, it is usually a governance failure that has resulted in the fall or failing of that organisation – particularly around where individuals have been found to have made irregular payments to themselves from their social enterprise out of a governance failing that's caused that". Practice Lawyer.

In summary, the influence of funder's attitudes and behaviours acts to prioritise the selection of particular structures or to marginalise the selection of other legal structures by social entrepreneurs.

4.4.4 The influence of business, legal and governance advice.

The business planning process is an important influence on structure selection as this was identified by all of those research participants that had experience of

giving business advice and some of the social entrepreneurs interviewed. The importance of business planning is illustrated by the quotations below such that the importance of a viable business model is expressed and that this is, in turn, is a precursor to and so influence upon legal structure selection:

"for the start-ups: it's business planning, it's defining products and services, it's talking about marketing strategy. Legal structure might come up, but a lot of it is really about making it viable." Business adviser.

"the approach is finding out ……. how they were going to trade, where they were going to generate income…...". Business adviser.

Further to identifying the importance of business planning in the structure selection process the importance of the sequencing of business planning in advance of structure selection emerges from the experience of a number of social entrepreneurs and the practice of business advisers as an important influence on structure selection:

"Forget legal structure for now, let's work on this plan." Business adviser.

"Forget legal structure for now and let's just define what products and services."…..And then if there is an occasion where it becomes important for them to make a decision one way or another, I then have a focus session on it with them, just one-to-one". Business adviser.

"I guess what I'm saying is it's things like the NewCo model [legal structure] are brilliant but they're off the agenda because it's not right for me to get that in at the point of business planning, it's just too complicated to get your head round, and it solves problems that you don't even know you have!". Social entrepreneur and business adviser.

Both business and legal advice are significant external influences upon structure selection as the advice provided by advisers may directly or indirectly influence the structure selections made by social entrepreneurs during the advice giving process. In a broader and additional sense, the influence of advisers may also act to either mitigate or compound the influences of structural pluralism, confusion and complexity discussed earlier in relation to the often poor quality of advice provided. Research participants consistently expressed the view that access to good quality advice was an important influence upon their structure

selection process. This influence is expressed below by a social entrepreneur and a charity chief executive and is suggestive of influences that act to mitigate the earlier noted influence of structural pluralism, confusion and complexity:

"So I think, as a social entrepreneur, that there would be two routes. One is you either strike lucky and you can come across someone like (*legal structures advisor*) who really sorts you out! ((laughingly)) Or you understand that this is going to be a bit of a journey and be prepared to keep changing your structure…". Social entrepreneur.

"It's so important for people to make the right choices, and I think what's really important is having that business support allows people to get the right information to make choices". Charity chief executive.

"there are a number of generalist special enterprise advisors who think they know more than they do and give dodgy advice". Social entrepreneur.
"An absolutely classic. They've set the wrong sort of company up because they've listened to the wrong advice.." Legal structures adviser.

In a similar vein, the issue of poor legal advice provided by legal experts and lawyers was specifically identified as detrimental to structure selection both by the social entrepreneur and adviser participants alongside assertions that many social enterprises had adopted an inappropriate structure following the receipt of advice:

"Yeah, and what does worry me is the quality and availability of legal advice." Social entrepreneur.

"I do get people coming to me who have been advised to register as a charity and have realised that they've essentially given away their project and they didn't realise they were doing that." Legal adviser.

"We realised that a lot of the legal work done at the time was substandard, and later on, in terms of its life, we encountered a problem with its legal structure." Social entrepreneur.

"And then they will go to a legal advisor, who will effectively sell them whatever they want to sell them." Social entrepreneur.

"…we unpick structures quite a lot;" Legal structures adviser.

"They are better to go to a lawyer to say, "I want to set up a CIC limited by shares and I want your advice," than going to them and saying, "What should I set up?" because we actually find the advice quite often quite poor". Social entrepreneur.

As with the findings concerning business planning and the sequencing of this in advance of structure selection discussed earlier, it is also suggested by legal advisers that the taking of legal advice should follow on from business planning and the development of a governance model in arriving at an appropriate structure for the enterprise. In support of this, a specialist social enterprise lawyer alongside a legal structure expert explains the context for the provision of legal advice and the relationship to the operation of enterprise:

"Legal advice has to be given in the context of a commercial issue."
Specialist social enterprise practice lawyer.

"the message is, "You decide what you want to do and then you will find the right vehicle to actually fulfil that for you and sometimes you'll have a choice at the end of the day." Legal structures adviser.

However, whilst the sequencing suggested above by both business advisers and legal advisers may prove to appropriate, a legal practice lawyer suggests that if it is practical to do so that the giving of legal advice and business advice may be co-ordinated such that the professional advisers supporting the client might all share a common view of the often complex business, governance and legal context of the social enterprise before arriving at a structure selection. Here a legal practice lawyer explains the issue of sequencing and suggests a degree of integration of business and legal advice:

"a number of times we will feel that possibly a social entrepreneur has come to us a kind of the wrong stage. And that might be because they need to develop their business plan further or potentially because they've taken their business plan so far that they – they've not counted for a particular legal nuance, which means that actually doing their… offering their business plan

the way it wants to is impossible. So I kind of think that these things need to be – need to be kind of going on at the same time. So it's not necessarily the degree of sequencing, it's as you are undertaking your business planning have you considered the legal ramifications of that?"

"So I mean the ideal scenario would be – at the appropriate stage would be sitting down with a set of accountants and a set of lawyers at the same time to almost thrash out what the sort of the main five issues on either side of that debate are. And so the lawyers and accountants then understand what the – what the particular financial concerns are from a legal point of view and the other way around what the legal concerns are from an accountant's point of view." Practice lawyer.

4.5 Social entrepreneur's responses to internal or external contradictions and tensions.

Some experienced social entrepreneurs seek to resolve their organising tensions through the flexible implementation of structures so softening the influence away from those structures with seemingly problematic organising arrangements as they look to work around the structural constraints. Here an experienced social entrepreneur, a legal adviser and a business adviser explain the approach:

"The sole social entrepreneur who will not give up control and ownership of their baby but who is absolutely dependent on securing some sort of grant funding. That's the one that frequently never gets resolved. Yeah, and most other things we can solve at some stage or another with a few tricks of the trade. There is actually a slightly devious way round that one, and I don't entirely approve of it, even though I thought of it, so I only offer it to people who are really desperate! ((laughs)) Which is basically you form a community interest company limited by guarantee with one voting member, which you can do, which is a social entrepreneur. They then recruit a Board of Directors, so when they go to funders, say, "Look, we've got four directors, they're unrelated," and in fact, come the general meeting, there's only one person

with a vote who can appoint directors, sack them, replace them. So I don't particularly like that structure". Legal adviser.

[Researcher] Does the CIC regulator go for that?

"Yeah". Legal adviser.

Here we can clearly see that experienced social entrepreneurs and their advisers are fully aware of the regulatory constraints that they are seeking to avoid in their approaches to organising as they reference the acceptance CIC regulator in relation to their practice:

"I think anyone like me, who has managed a social enterprise, and been in the real thick of it, knows that it's actually all about power. It's all about power and managers realise that. Now it's up to them how they want to manage that, but there's no legal structure that I think I, as a manager, couldn't manipulate to suit the way that I work and manage, and I think most experienced managers know that, and so really legal structures, to some extent, reflect that." Social entrepreneur.

"the other thing is people don't realise how flexible these structures can be. A lot of business advisors don't realise how much they can bend and twist these structures." Social entrepreneur.

"I don't know any social enterprise where I've spent a long time with, when you work out what they really want, where you haven't had to improvise or be imaginative with their legal structure, and that's built in to good social enterprises". Business adviser.

Advisers clearly recognised and exploited what they perceived to be flexibilities within the current structures that allowed them to accommodate their own orientations towards organising:

"Personally, I quite like the complexity because it means I can design structures with very subtle variations and pick and choose from different bits, so it gratifies me that a client can come to me with some really quite weird and wonderful requirements and I can manipulate these little bits and pieces by using a CIC, or whatever, to meet their needs, so I find that quite creative." Legal Adviser.

In counter-argument to the decoupling practiced by some social entrepreneurs and in pursuit of structural legitimacy, some form of measurement and review in the form SROI or Social Audit is suggested by some participants as a more effective reflection of social enterprise than some of the widely promoted structures:

".… a good social audit, one of the things it does is that annually it reviews the legal structure and it reviews it in the light of people's experiences annually, and that's a very dynamic thing. That doesn't happen in social enterprises generally. And I reckon the reason why it doesn't happen is because the people who are in power in that social enterprise are aware that what they're doing doesn't necessarily fit with the legal structure and if they start to review it, then that change in power will be exposed". Social Entrepreneur.

Whilst some social entrepreneurs have sought to decouple their practice from that associated with their structure, others have taken the approach of creating new structures that relate more closely to their organising orientations:

.".it was pre-CIC….. and effectively, I think it boiled down to a charity, which was totally irrelevant, or a company limited by guarantee, and I didn't like either of those. And then we started talking about share capital companies, and to cut a very long story short, between xxxx and myself, we invented a new form of shared capital company, a multi-stakeholder shared capital company, which we dubbed the NewCo model, and where there were different classes of shareholder". Social Entrepreneur.

Here, we clearly see social entrepreneurs responding to what they perceive to be the restrictions imposed by the current structures such as the CIC:

"……so all of the early backers to this [the FairShares Model] were rooted in some critique of the CIC. The early critique was the loss [of a democratic element]; and so Co-ops UK responded initially to that by creating a Co-operative CIC, so they restored the democratic elements that were lost from the CIC in its original creation by the setting of model rules. xxxxx created a stakeholder model. I created what I call the surplus sharing model. xxxxx created what he called the social wealth model. So, we were all finding a

legal response to what we saw as the shortcomings of the CIC". Social Entrepreneur.

Not only do we see social entrepreneurs responding to the restrictions of the current structures we also see them reacting to their competitive environment and seeking ways to scale up their operations through new co-operative approaches to partnership organising:

"So, looking at the way that service is across the board, the commissioning is going, we responded to the issues in that and decided to set up the I believe first health and wellbeing LLP".

"I think it's a great model to use. It can be mixed between private sector and public, they've got to have objectives aligned, because again they're taxed at source, they all will take the same risk. It's an investable platform, so if an investor wanted to have equity shares in the LLP they could do that. But you cannot do that in the individual organisations that make up the LLP because they have an asset lock. So, that's always been a barrier to investment. It could be possible that a commission would put the money in to start a service that they wanted to test out, so it's an interesting model for innovation. You can use it as a funding circle. We've really had to focus on what we want to do because it's such a flexible model". CBS Director.

4.6 Chapter summary.

In summary, this research has identified a number of significant influences acting upon the selection of the structure selection for social enterprises and these include the internal influences of; ownership, decision making, business planning, funding alongside external influences that are exerted by; funders, kite-marks, confusion and complexity. This research finds that the structure choices made by social entrepreneurs have significant implications for access to funding, particularly grants and investment alongside some very practical implications related to trading, stakeholder engagement and access to advice that are related to the legitimacy associated with their structure. This research also finds that experienced social entrepreneurs or those with experienced advisers are taking very pragmatic decisions concerning structures as they look

to select structures that are recognised as being legitimate and privileged social enterprise structures on the basis of their promotion, recognition and legitimacy of definition such as the Community Interest Company and through kite-marks such as the Social Enterprise Mark. The issue of the CIC structure was a central and recurring concern for a significant number of the participants in this research and consequently provides a particular focus for future discussion in this thesis.

Further, having chosen these legitimated structures, social entrepreneurs are seeking 'work-around' solutions in order to facilitate their access to finance alongside their control of ownership, control of decision making and their use of profits. In addition to 'work-around' solutions, social enterprises faced with a significant competitive threat from large private sector organisations, particularly in the health sector have sought innovative new multi-stakeholder structures to enable them to compete whilst maintaining the status and structural integrity of their own structures.

Chapter 5: Discussion.

The selection of appropriate structures for social enterprises has been the subject of much practitioner and government debate as social enterprises have become an even greater presence in the social, political and economic landscapes over the past fifteen years (Bates, Wells & Braithwaite, 2018; Cox, 2012; Department for Business, Innovation and Skills, 2011; DLA Piper & UNLtd, 2014; Frail & Pedwell, 2003; Giotis, 2010; Guardian, 2011; Morrison Foerster & Trust Law, 2012; Social Enterprise UK, 2017a; Wrigleys Solicitors, 2014) whilst trading effectively in often highly competitive environments (Dees, 1998; Thompson, 2002; Pearce & Kay, 2003). This thesis argues that the structure choices of social entrepreneurs holds wide-ranging and profound implications for investment, funding options and trading opportunities as well as the protection of social purpose and/or assets. All of the aforementioned factors are important in respect to the financial health and growth of social enterprises alongside their generation of social capital so represent profound implications for the practice of social enterprise.

The overall purpose of this research was to more fully understand the factors that influence social entrepreneurs in choosing the structures that they adopt for the organisations they create. As there is at the present time no definition in law of a 'social enterprise', excepting for the purposes a small number of government programmes, the social entrepreneur has up to twelve potential choices in respect of legal form (School for Social Entrepreneurs, 2018). Following this, social enterprises are not defined by their legal status but rather by the nature of ownership and decision making social entrepreneurs adopt, alongside the way they utilise the profits they generate through their trading activity.

Previous studies have examined social enterprise structure selection from the perspective of governance arrangements (Spear et al., 2007), typology based on legal structure (Bull, 2015, 2018) and rules-based rubrics (Bates, Wells & Braithwaite, 2018; Cox, 2012; Department for Business, Innovation and Skills, 2011; DLA Piper & UNLtd, 2014; Frail & Pedwell, 2003; Morrison Foerster & Trust Law, 2012; Social Enterprise UK, 2017a; Wrigleys Solicitors, 2014). However, this research departs from these very particular perspectives in

seeking a holistic view of the influencing factors on structure selection based on the experiences of social entrepreneurs and their advisers. In adding to what is currently written, the influencing factors on structure selection are examined at a micro level through the organising orientations of social entrepreneurs alongside the macro environmental influences acting upon them. The lens of institutional logics (Fitzgerald & Shepherd, 2018; Pache & Santos, 2013a; Sullivan Mort, et al., 2003) is used in order to argue that the disciplining effects of the institutionalised templates for organising (Battilana, et al., 2009) that are presented to social entrepreneurs by powerful actors serves to create and control the social enterprise category.

Despite the founders of social enterprises being faced with a proliferation of structural forms to pursue their interests, social enterprise is constructed by powerful actors as a homogenous organisational category that I refer to as the 'social enterprise category'. This social enterprise category is increasingly rendered a governable terrain (Nickel & Eikenberry, 2016) through the development of Kitemarks, funder/investor requirements and government policy initiatives which shape and control what it means to be a 'good' social enterprise. Such mechanisms have been shown to strengthen institutional coherence and drive structural isomorphism (i.e. Similarity) (DiMaggio & Powell, 1983; Boxenbaum & Jonsson, 2017) and such is now the case with social enterprise.

As yet, scant attention has been given to the ways in which Kitemarks, standards, government promotion and funding criteria serve to prioritise and marginalise particular forms of social enterprise by bestowing or denying access to material (e.g. financial) and symbolic (e.g. legitimacy) resources, the implications of such disciplining affects or how individual entrepreneurs respond to them.

This chapter explicates this issue and adds to the current social enterprise discourse as the mechanisms that govern social enterprise are exposed. In doing this I position Kitemarks, standards and funding criteria as political artefacts that serve to discipline the structure choices of social entrepreneurs through prescribing desirable characteristics, behaviours and structures for social enterprises. This chapter also highlights situations where adherence to

such prescriptions often results in tension for social entrepreneurs when their structure choice is at odds with their own constructions of legitimate organising principles, which are perceived by them to be as socially and materially efficacious but prevent access to physical and symbolic resources.

The analysis presented in this chapter offers new insights into the dynamics surrounding the structure choices made by social entrepreneurs, including the potential nodes of conflict between exogenous prescriptions and social entrepreneur's own orientation to certain aspects of organising and what social entrepreneurs actually do in the face of such conflict. I find that conflict is particularly prevalent in respect of ownership (the control and use of profits) and governance arrangements (the control decision-making) where the treatment of these aspects within the logic of the social enterprise category are at odds with the social entrepreneurs orientation to how these issues should be organised. In order to resolve the tensions that they experience, social entrepreneurs often 'decouple' (Boxenbaum & Jonsson, 2017) their governance and/or organising practices from those prescribed in external standards or begin to create new structures and ways of organising on the margins of the social enterprise category through processes of institutional entrepreneurship (Battilana, et al., 2009).

The dynamics of structure choices made by social entrepreneurs foreshadowed above are presented in the social enterprise structure selection model below (Figure 5.1).

Social enterprise legal structure selection - conceptual model
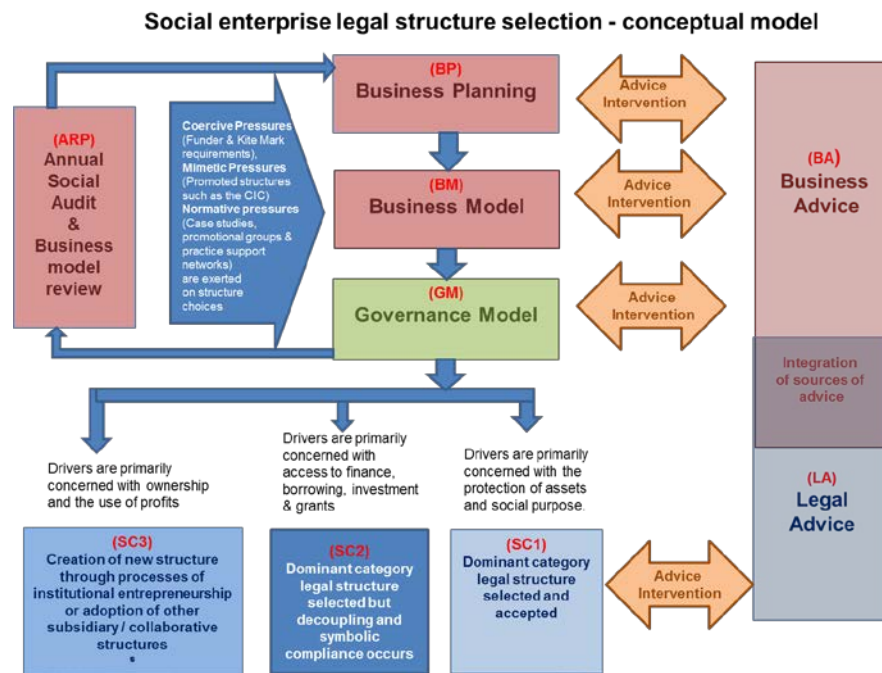
Figure 5.1 A Social Enterprise structure selection model

The following sections of this chapter seek to explicate the external pressures acting on social entrepreneurs' own orientation to certain aspects of organising and what they actually do in the face of such pressures as presented in figure 5.1 above.

5.1 The construction and categorisation of social enterprises.

As set out in Chapter 4, the way that social enterprise is currently constructed by government, funders and within quality standards/Kitemarks constitutes a 'social enterprise' category of organisation, which possess disciplining functions that act to prioritise and marginalise particular organisational forms, thus creating a categorical imperative for social entrepreneurs to conform to particular forms/structures of social enterprise from within the social enterprise category. The findings [section 4.4] suggest that kite-marks, promoted structures, funding criteria, and government policy discipline the choices of social entrepreneurs in that they influence the ownership and control of the enterprise, its access to funding, investment, and support. Alongside the implications of these disciplining factors the enterprise's legitimacy, recognition and trading relationships may also be affected.

In some cases [See Findings, section 4.3.3] it was apparent that structure had been selected based upon a desire to comply with the preferences of funders (Dey & Teasdale, 2016), the requirements of kite-marks or because the promoted structures were seen to represent the epitome of legitimate social enterprise structure rather than upon organising principles surrounding ownership, decision making and use of profits that were perceived by social entrepreneurs to be as socially and materially efficacious but prevented access to physical (money or material assets) and symbolic (legitimacy and recognition) resources [See Findings, sections 4.4]. Others, having selected their structure based upon their own view of such legitimate organising principles reflected upon the adverse consequences of that selection in relation to their loss of legitimacy as an accepted social enterprise, their inability to access funding or investment, the restriction on their use of profits and their loss of control of decision making [See findings section 4.4].

Categorisation is used here as a useful lens through which to view the structure selection process, as we can see that the social enterprise category is constructed and reconstructed in response to the influences and prescriptions of powerful actors and the macro-economic environment alongside the social and economic realities of practical social enterprise activity [See findings, sections 4.3 & 4.4]. Categorisation plays a key role in imposing a structural coherence on social entrepreneurs by placing their ways of organising into a recognisable social enterprise category. The placing of ways of organising into a recognisable category, implies the membership of a particular category and therefore not of others, resulting in relational tensions between the social enterprise category and other forms of organising [See findings, sections 4.3 & 4.4]. The ways that the category of social enterprise is constructed by government, funders and kite-marking organisations serves to minimise the differences between the members of the social enterprise category whilst maximising the differences between that category and others [See Findings 4.2 & 4.4]. This separation of the category of social enterprise serves to create clear boundaries between it and other categories that in turn serve to further facilitate the categorisation process. This can clearly be seen in the accounts of social entrepreneurs and their advisors experiencing this process as they either felt excluded from the social enterprise

category or compelled to comply with it [See findings, sections 4.3 and 4.4] in pursuit of legitimacy (See NewCo Model) or grant funding.

The placing of organisations into categories acts as a disciplining function that can shape the allocation of attention or support from various organisations (Zuckerman, 1999) such as funders and policymakers as well as facilitating comparisons between the organisations within a category (Hsu & Hannan, 2005). This use of categories creates an 'organizational 'imperative' (Glynn & Navis, 2013) for social entrepreneurs to fit their social enterprise activity into that category as a precursor to acquiring both social approval (acceptance as a social enterprise) and material resources (grants, investment and business support) (Zuckerman, 1999; Lounsbury, & Glynn, 2001; Glynn & Navis, 2013) [See findings, sections 4.3, 4.4 & 4.5].

Additionally, when social entrepreneurs strategically self-categorise in response to their audiences they do so largely in pursuit of legitimacy and this can act as a prime driver for their structure selection. We saw within the narratives of the social entrepreneurs, for example, a significant concern for their categorisation by regulators or funders from whom they were are seeking grants or investment, customers seeking products or services, and specialist social enterprise networks/business support organisations from whom they were seeking assistance. [See findings, sections 4.2 & 4.4].

In addition to self-categorisation, social enterprises are subject to social categorisation by expert legitimating agencies (Vergne & Wry, 2014) such as kite-marking organisations, funding bodies and government. As we can see in the accounts of social entrepreneurs and their advisers this categorisation occurs both directly and indirectly. Direct social categorisation by funding bodies can be seen in the funding requirements of social investors, grant givers or local authorities as experienced by number social entrepreneurs in this research [See findings, sections 4.3 and 4.4] but not by some of the 'experts' who then engaged in institutional entrepreneurship. Indirect social categorisation can be seen in the legitimating actions of sector kite-mark awarding bodies such as the SEM Company or those promoting particular structures such as the CIC Association or CIC regulator. The findings highlighted for example that social entrepreneurs clearly identified structures that met the requirements of the SEM

and CIC as members of the category of social enterprise and recognised the structures associated with the social enterprise category as being accepted as legitimate social enterprises [See findings, section 4.4]. We can also clearly see this social categorisation in relation to the CIC structure in action through the practice of local government officers in their decision making concerning the transfer of social assets, the application business rate relief and the promotional activities of the CIC regulator [See findings, section 4.4]. In these examples the actions of the expert legitimising organisation serves to favour those structures that conform to the institutional logics that are codified in CIC's institutionalised template for organising (Battilana, et al., 2009) and penalise those that do not.

Departing from the linear, rational decision tree type conceptualisations of structure selection that can be found in the current academic and practitioner literature. This research presents important evidence of the disciplining of the choices of social entrepreneurs. Further, that this disciplining of structure choice by powerful actors serves to make the social enterprise category an increasingly controlled and governable terrain (Nickel & Eikenberry, 2016).

Additionally and when taken from a sociological perspective, legitimacy is predicated on a social enterprise conveying an identity that fits within the social enterprise category (Navis & Glynn, 2011; Glynn & Navis, 2013) in order to be categorised as such. Wry, Lounsbury & Glynn (2011, p. 1) also suggest that this social enterprise persona should represent a "clear defining collective identity story" that demonstrates the group is engaged in social enterprise activity, "with a common orienting purpose and core practices". I argue that this "identity story" is conveyed in the formalised institutionalised template for organising (Battilana, et al., 2009) that is laid out in the requirements for the SEM, the CIC or in the definitions of social enterprise promoted by government agencies.

However, and again from a psychological perspective, organisations with common attributes will also see themselves as part of the same category and self-categorise accordingly (Glynn & Navis, 2013). Despite the many and often contested definitions of social enterprise, the core aspects of each (trading, shared ownership and control alongside restrictions on the use of profits) are predominantly based upon government, funder and practitioner group definitions that represent the defining identity story (Wry, Lounsbury & Glynn, 2011) of the

social enterprise category. The findings highlighted for example, that particularly experienced advisers and social entrepreneurs such as participants 5, 11, 12, 13 and 14 often viewed these categorises as narrow and undemocratically arrived by those groups of powerful actors such as the CIC Association, SEM company and Social Enterprise UK (SEUK) that would seek to define and categorise social enterprise activity in this way [See findings, section 4.4]. This group of social entrepreneurs and advisers clearly articulated a rejection of the creation and control of the social enterprise category by powerful actors.

The participants in this research clearly articulated concerns about their categorisation in terms of their structure that related to legitimacy, recognition, access to support, ownership, and control alongside the potential effect on trading related to their structure. In exploring these concerns, this research explicates these largely overlooked influences and advances our understanding of the dynamics of strategic categorisation upon the structure selection process of social entrepreneurs going beyond what is currently written.

In interpreting the concerns of the research participants two very specific issues emerged with regard to the categorisation of social enterprise activity; firstly, the kite-marked category promoted as the social enterprise mark (SEM) and the category promoted as the CIC [See findings, sections 4.4]. The SEM is promoted as a form of social enterprise accreditation and brand that suggests that it "tells customers that a product or service comes from a social enterprise" (Social Enterprise Mark Company, 2016). The categorisation of social enterprise activity in this way serves to privilege a particular conceptualisation of what a social enterprise is (Dart, Clow, & Armstrong, 2010); Lyon, & Sepulveda, 2009) and thereby confers both structural (Suchman, 1995) and categorical (Vergne & Wry, 2014) legitimacy upon the particular structures that fit the category boundaries set out by the kite-marking organisation.

The systematic privileging of one category over others (Lakoff, 1987) and the meaning systems embedded within the promoted category clearly disciplined the choices of social entrepreneurs this study. This privileging facilitates the stratification of category membership based on certain attributes (Rosch in Rosch and Lloyd, 1978) such as governance structures that promote shared ownership or those that restrict the use of profits/ownership of assets by social

entrepreneurs. The stratification of membership within categories of social enterprise activity and the privileging or conferring of legitimacy on one category over another holds implications for practice in terms of promoting the selection of structures of social enterprise that fit a particular category boundary whilst challenging the selection of others that do not. In recognising that structure selection is disciplined in this way we can challenge the current conceptualisations of structure selection as purely based upon the rational choices made by social entrepreneurs related to their own orientations toward organising in favour of a more complex and politically nuanced view that structure selections are often a product of the disciplining actions of powerful actors.

In addition to the disciplining influences acting upon social entrepreneur behaviour there are further and much more far-reaching considerations as this influencing of social entrepreneur behaviour manifests as a form of state-craft (Scott, 1998) that can be seen to influence the discourses of public policy, politics and economics in a way that has not been explored by previous authors.

The challenge to legitimacy discussed above is particularly evident for example in respect of those social enterprise structures that include employee ownership and distribution of profits (Ridley-Duff & Southcombe, 2012) as they do not easily conform to the SEM and therefore fall outside the category boundary. The SEM and the CIC both benefit from specific infrastructure support via the Social Enterprise Mark Company and the CIC Association alongside their associated online information channels (www.socialenterprisemark.org.uk & www.cicassociation.org.uk). The infrastructure support afforded to the SEM and CIC alongside the CIC Regulator's duty to raise awareness of and confidence in the CIC structure (CIC Regulator, 2017) serves to reinforce audience perceptions of the legitimacy of this formalised institutionalised template for organising (Battilana, et al., 2009) that in turn acts to maintain and strengthen the category boundary.

The systematic privileging and bestowing of legitimacy upon certain categories of social enterprise structure serves to drive the isomorphism of social enterprise institutions (DiMaggio & Powell, 1983; Boxenbaum & Jonsson, 2017) as social entrepreneurs are driven to adopt structures not in response to macro

environmental and competitive pressures or their micro orientations towards organising but rather through a process of response(s) to a socially and politically constructed environment [See findings, sections 4.2, 4.3, 4.4 and 4.5].

I find that the isomorphism of social enterprise institutions is being driven by the three types of isomorphic pressure posited by DiMaggio and Powell (1983) in the form of coercive, mimetic and normative processes. Coercive pressures are generally the result of politics and power relationships and in this case the demands of government, funders and other large actors such as commissioners of services to adopt specific structures or practices, or face sanctions for non-compliance (Boxenbaum & Jonsson, 2017). This coercive pressure is clearly demonstrated in the social entrepreneur's accounts of funders directly dictating the structure of their social enterprise as a precondition to the provision of funding and support [See findings, section 4.4]. Social entrepreneurs are often coerced into the adoption of certain kite-marked, promoted and privileged structures for fear of being excluded from practitioner networks, commissioning processes, investment, grant funding, business support or other forms of support such as business rate relief [See findings, section 4.4].

Mimetic pressures typically concern the response of organisations to uncertainty as they seek to imitate other organisations that are seen to be successful and this is to a degree true of the social enterprises in this research though a significant driver for the adoption of structures through imitation relates to the adoption of for example the CIC structure as the expression of successful social enterprise activity that brings with it both legitimacy and privilege [See findings, section 4.4].

Normative pressure is exerted by social enterprise peer networks and support organisations that for example act to promote certain structures such as the CIC or those that meet the criteria for the SEM as the normative choices. This normative pressure can clearly be seen in the diffusion of case studies of successful organisations adopting those structures as well as the promotion of their benefits over other alternatives (See www.cicassociation.org.uk). Following Nickel & Eikenberry (2016) the isomorphic pressures on the selection of social enterprise structures can be expressed as a form of 'governing' as both state

and non-state actors encourage particular forms of social enterprise structure such that the activity of social enterprise becomes increasingly governable.

In identifying and explicating how the isomorphism of social enterprise institutions is being driven in relation to the coercive, mimetic and normative processes acting on social enterprise structure choices this discussion contributes to our understanding of both the current institutional state of social enterprise and to our understanding of the disciplining effects of these drivers.

5.2 Tensions between the dominant social enterprise category and the organising orientations of social entrepreneurs.

The category that is social enterprise is built upon a hybrid mix of social and market logics with social logics manifesting in strong stakeholder involvement, democratic governance, shared commitment to a social mission, and acting ethically (Spreckley, 1981, 2000, 2011, 2015; Fitzgerald & Shepherd, 2018) and with competitive market orientation and profit maximisation typifying market logics (Zhao & Lounsbury, 2016). The various logics adopted by social enterprises are often adopted in the form of a hybrid of the two (Carter & Jones Evans, 2006; Neck, Brush, & Allen, 2009) that conveys the formalised institutionalised template for organising (Battilana, et al., 2009; Fitzgerald & Shepherd, 2018) and that in turn underpins the category. Following the social enterprise discourse concerning hybridity, I also argue that the combining of market and social logics results in tension (Battilana & Dorado, 2010; Pache & Santos, 2013a). I uniquely position this tension as one that exists between the institutional logics imposed by powerful actors in the form of institutionalised templates for organising (Battilana Leca & Boxenbaum, 2009) that fit within the boundary of the social enterprise category and the organising orientations of social entrepreneurs. I further argue that this tension is particularly pronounced in relation to social entrepreneurs' orientations towards ownership, decision-making and the distribution of profits.

We saw in the narratives of the social entrepreneurs that there were particular concerns for the current institutional orientation (Vurro, et al., 2010) or institutionalised template for organising (Battilana, Leca & Boxenbaum, 2009) in relation to decision making and ownership [See findings sections 4.1, 4.2, 4.4 &

4.5]. The institutional logics of the social enterprise category as embodied in the SEM and the CIC structure act to promote (a mimetic norm perceived by the research participants rather than a legal requirement) the sharing of decision making and the involvement of the social beneficiaries of the enterprise in that decision making as an expression of the categorical legitimacy (March & Olsen, 2006; Glynn & Navis, 2013) of social enterprise activity and this provided a particular focus to the tensions that social entrepreneurs' experienced [See findings sections 4.1 & 4.4]. The accounts of the social entrepreneur and adviser participants often contained reflections upon the tension that they experienced in relation to the control of decision making of the enterprise that they had created or having chosen a structure that conformed to the social enterprise category rather than their own orientations towards organising [See findings sections 4.1 & 4.4].

In addition to, and often further compounding the decision making tensions the dominant logics related to the ownership of the enterprise and its assets, but particularly those that concerned the distribution of profits amongst the social entrepreneurs or other shareholders/investors were a source of further tension apparent in the narratives of the social entrepreneurs [See findings sections 4.1, 4.2 & 4.4]. The tension concerning ownership and control was found to be much amplified when small groups or single entrepreneurs were involved and they sought to retain ownership and control of what they saw as 'their' enterprise [See findings section 4.1]. Conversely where public assets or a community imperative brought social entrepreneurs together the tensions experienced where those concerned with the protection of that asset in public ownership or the sharing of decision making surrounding how best to deliver their social mission [See findings section 4.1].

In relation to market logic tensions, the narratives of the social entrepreneurs or their advisers (participants 4, 5, 7, 11, 12 and 13) often revealed the juxtaposition of entrepreneurial personality in terms of business orientation, central locus of control, need for reward from the venture (Meredith, et al., 1982; Timmons & Spinelli, 2009) [See findings section 4.1] and the current institutional orientation of the social enterprise category in respect of philanthropic shared ownership and decision making which amplified that tension [See findings section 4.1].

The categorical governing or control of the category of social enterprise serves not only to restrict the choice of social enterprise structure but also acts to inhibit the development of new more radical forms of social enterprise structures. Moreover, the transformation of what the research participants regarded as the 'grass-roots movement' of social enterprise [See findings section 4.4] is a manifest form of statecraft as the complex reality of social enterprise becomes typified, legible (Scott, 1998) and rendered a governable domain (Nickel & Eikenberry, 2016). The findings also concern the political views of the social entrepreneurs in that they clearly highlight this form of control as a point of tension as they rejected the legitimacy of those government and practitioner groups that they saw as conspiring to discipline and govern what they saw as the social enterprise movement [See Findings pages 4.4].

5.3 How social entrepreneurs respond in the face of conflict with the institutional logics of the dominant social enterprise category.

Where the organising orientations of social entrepreneurs is in conflict with the social enterprise category and therefore the logics that underpin it, this results in one of three responses by social entrepreneurs; conformance to the social enterprise category logics, symbolic adherence whilst decoupling from those logics or the creation of new logics or mixes of logics and therefore new categories of social enterprise activity.

5.3.1 Conformance to the social enterprise category logics

Not all of the social entrepreneurs and their advisers in this research experienced tensions between the social enterprise category logics and their own orientations towards organising. Those who did not experience such tensions appeared to be content with the social enterprise category logics and the structures that related to those logics [See Findings section 4.1 & 4.2].

5.3.2 Decoupling from the social enterprise category logics

In relation to decoupling from the social enterprise category logics we saw practical manifestations of this response in the accounts of social entrepreneurs

or their advisers [See findings section 4.2 & 4.5] as they sought ways to circumvent the asset lock or shared decision making in the governance arrangements associated with the CIC structure. The decoupling of practice from the current institutionalised template for organising (Battilana, Leca & Boxenbaum, 2009) whilst symbolically complying (Dey & Teasdale, 2016) in pursuit of categorical legitimacy was clearly articulated through the accounts of social entrepreneurs or their advisers as they sought to organise in ways that limited or obviated the constraints imposed over ownership and/or decision making by this dominant institutional template [See findings sections 4.4 & 4.5].

5.3.3 Transformation through the creation of new categorises of social enterprise.

A very different response to the above tensions was sought by other social entrepreneurs (participants 9,11,13 and 14) also experiencing the same tension as they began to create new categories of social enterprise activity with new ways of organising and new structures on the margins of the emerging governable domain of social activity. The social entrepreneurs, in this case, sought to take 'situated institutional action' (Greenwood & Suddaby, 2006) through processes of institutional entrepreneurship (Battilana, et al., 2009) in order to modify or create new categories. The institutional change enacted by social entrepreneurs is exampled in this research through the accounts of three groups of social entrepreneurs [See findings section 4.5].

Firstly social entrepreneurs responding to dominant institutional logics have sought to facilitate shared ownership, investment and profit distribution in the development of the FairShares model (Ridley-Duff, 2015) in which it is possible to distinguish between different types of assets by their origin and therefore their future use so as to enable shares to be held and realised by employees, social entrepreneurs, investors and customers for social purpose as well as personal gain (See www.fairshares.coop/what-is-fairshares/). The institutional work (Lawrence, Suddaby & Leca, 2011) pursued by the social entrepreneurs in creating this new category relate to defining the category and changing the normative associations of the current social enterprise category of organising through the employment of rhetorical strategies (Suddaby & Greenwood, 2005)

that define the category by drawing upon the history and values of co-operative social enterprise. In pursuit of identity construction and the development of normative associations the meta-narratives (Czarniawska, 1997) or 'master frames' (Creed, Scully, & Austin, 2002) employed are those of ethics and democracy alongside wealth and power-sharing placed against the 'mirror narratives' (Ruebottom, 2013) of the inequality, inequity and dominance of control inherent in the current social enterprise category of organising. Interestingly, these logics can be clearly observed in public service bureaucracies, private for profit companies, and non-member led charitable associations. Further institutional work by the social entrepreneurs can be seen in the development of a normative network (www.fairshares-association.com) through which the new practices associated with this category are being normatively sanctioned (Lawrence, 1999; Greenwood & Suddaby, 2006). Secondly, findings highlighted another of the participants in this research who sought to develop an alternative structural category, also in pursuit of shared ownership. However, this 'NewCo' model was at that time a bespoke structure for a single enterprise without the broader pursuit of legitimacy by seeking to influence the sense-making (Daft & Weick, 1984; Weick, 1995; Weick, Sutcliffe, & Obstfeld, 2005) of those groups of powerful actors then defining and categorising social enterprise activity. The 'NewCo' model experienced significant tensions in practice that concerned both recognition and acceptance which resulted in adverse impacts upon trading as the enterprise was recognised by stakeholders as neither a true social enterprise nor a true private business [See findings section 4.4]. However, it is interesting to note that the FairShares Association (www.fairshares.coop) was amongst the first to recognise the 'NewCo' model as a legitimate form of social enterprise.

Thirdly, the findings highlight other social entrepreneurs who in pursuit of scale in order to compete with the private sector for contracts in health provision have begun to organise in innovative new ways. In response to the privileging of large private sector organisations by funder requirements, these social entrepreneurs are creating a new collective category of social enterprise by adopting a structure not typically associated with social enterprise activity in the form of the Social Enterprise Limited Liability Partnership (SELLP).. The social entrepreneurs, in this case, have sought to implement this novel structure for

collective benefit whilst acting to maintain the governance model, business model and social mission of the individual members (Health & Wellbeing Partnership, 2018). The use of the limited liability partnership (LLP) structure by social enterprises was first proposed by Stephen Lloyd in an article in the Barrister Magazine in 2006 (Lloyd, 2006) and there has been little previous evidence of its use by social enterprises but this now emerges as a potential new category of social enterprise [See findings section 4.5] with its own institutional logics that enable scale, whilst retaining the individual governance, profit distribution and tax advantages of its members.

There remain, however, significant challenges to the adoption of this structure as first conceptualised by Lloyd as he argued that for it to be truly effective there would need to be some minor changes to the LLP law. Following the social logics standpoint, Lloyd's original conception suggested that the features of such a SELLP might include; its establishment for charitable purposes (as defined in Section 2 of the Charities Act 2006); it being transparent in terms of filing membership and accounts information with Companies House, it being regulated by and filing an Annual Return to the CIC Regulator. In terms of control of decision making, it was suggested that at least one Charity Member of the SELLP with a minimum of 30% of the LLP's equity being owned by a charity or charities. Further stipulations were also suggested in that a charity member would be appointed and hold a golden share which would mean that there could be no change to the purposes of the SELLP or change to its partnership agreement without its consent (see Lloyd, 2006). Despite Lloyd's early conceptualisation of the SELLP the early adopters of this structure cite as a major advantage the opportunity to include private equity partners alongside charities and other forms of social enterprises in such a way that each might maintain their own ownership, control, tax and profit distribution arrangements whilst being able to work together for mutual benefit. Interestingly, these benefits would not be possible given the early design of the SELLP based on the primacy of social logics.

In explicating the responses of social entrepreneurs to the disciplining of their structure choices this chapter advances the understanding of both structure selection and structure creation through the institutional work (Lawrence,

Suddaby & Leca, 2011) of social entrepreneurs engaged in the practice of institutional entrepreneurship (Battilana, et al., 2009).

5.4 Chapter summary.

In summary, this chapter has discussed the how social enterprise is portrayed as a homogenous organisational category that is increasingly rendered a governable terrain (Nickel & Eikenberry, 2016) through the development of Kitemarks, funder/investor requirements and government initiatives which shape and control what it means to be a 'good' social enterprise. The mechanisms that act to strengthen institutional coherence and drive the structural isomorphism (i.e. Similarity) (DiMaggio & Powell, 1983; Boxenbaum & Jonsson, 2017) of social enterprise domain are explored. This chapter pays attention to the ways in which Kitemarks, standards and funding criteria in particular, serve to prioritise and marginalise particular forms of social enterprise by bestowing or denying access to material (e.g. financial) and symbolic (e.g. legitimacy) resources. Alongside this, the implications of such disciplining effects on social entrepreneur's actions are considered.

This chapter explicates the disciplining effects on structure selection by, positioning Kitemarks, standards and funding criteria as political artefacts that serve to constrain the structure choices of social entrepreneurs through prescribing desirable characteristics, behaviours and structures for social enterprises. The circumstances were adherence to such prescriptions is at odds with social entrepreneur's own constructions of legitimate organising principles, which are perceived by them to be as socially and materially efficacious but prevent access to physical and symbolic resources are discussed. When such conflict arises, the responses of social entrepreneurs in either complying with the category logics, 'decoupling' their governance and/or organising practices from those prescribed in external standards or beginning to create new structures and ways of organising on the margins of the social enterprise domain are explored through the lenses of both institutional work (Lawrence,

Suddaby, & Leca, 2011) and the processes of institutional entrepreneurship (Battilana, et al., 2009).

Chapter 6: Conclusions.

Based on the empirical findings presented in the preceding chapter(s) I argue in this thesis that social enterprise cannot be understood as a homogenous organisational category as portrayed in government policy documents but as a set of organisations facing a proliferation of structural forms which are increasingly rendered a governable domain (Scott, 1998; Nickel & Eikenberry, 2016) through the development of Kitemarks, funder / investor requirements and government policy initiatives. I also advance further argument that these developments act to prioritise and marginalise particular forms of social enterprises as they exert coercive, mimetic and normative pressures (DiMaggio & Powell, 1983) that act to facilitate the categorising of social enterprises in a way that strengthens institutional coherence and serves to drive structural isomorphism (DiMaggio & Powell, 1983; Boxenbaum & Jonsson, 2017). I also argue that as the actions of powerful actors work to maintain (Greenwood and Suddaby, 2006; Mutch, 2007) the social enterprise category and can be contrasted with the embedded agency of social entrepreneurs who act to create and legitimate new structures (Battilana, Leca & Boxenbaum, 2009; Hardy & Maguire, 2017) that challenge that social enterprise category.

6.1 Contribution to practice

The research question that was set for this study, by its very nature, seeks a practical answer, such that developing a contribution to practice was my primary aim in conducting the research. In problematizing the current approaches to structure selection (Alvesson & Sandberg, 2011) the intention was that the benefits of the research would have utility (Corley & Gioia, 2011) in supporting social entrepreneurs and their advisers in the selection of an appropriate structure for their social enterprise(s). This thesis, therefore, advances a new model for the practice of structure selection that extends current understanding through the consideration of the tensions between the organising orientations of social entrepreneurs, external environmental influences and the structures currently available to them. Further, the model presented recognises the practices of social entrepreneurs in response to the governing of the current

structures available to them as they seek to adopt and develop new structures through processes of institutional entrepreneurship (Battilana, Leca & Boxenbaum, 2009). In presenting a holistic view of the selection of structures for social enterprises the aim is not to reinforce the disciplining of social enterprise activity but rather to illuminate how the social enterprise category is being challenged by the agency of social entrepreneurs.

Following the argument that social enterprises cannot be understood as a homogenous organisational category, the selection of a congruent structure cannot therefore be easily arrived at through the use of the current linear flowchart type models produced by practitioners, support organisations, funders and law firms that are widely used by many social enterprise advisers.

It is argued here that a congruent structure may be more appropriately arrived at through the balanced consideration of both the institutional orientation (Vurro, et al., 2010) of the social enterprise category and the social entrepreneur(s) own orientations towards particular ways of organising when placed within the context of the sequenced development of the core organisational components of business model, governance model, and structure.

In proposing a model to assist social entrepreneurs in their selection of a structure this thesis illuminates the important issues in that structure selection process and their sequencing in arriving at a congruent structure. Rather than simply regarding structure selection as a response to a number of simple questions pertaining to internal organising and external factors, this thesis frames structure selection as an open process of tension resolution through the examination of the important interrelated issues that lead to that structure selection. A further purpose for advancing such a model is to encourage the embedded agency of social entrepreneurs in considering new approaches and structures categorical legitimation (Vergne & Wry, 2014) rather than accepting the disciplining of their choices and therefore the available structures.

The current practice models that are designed to assist social entrepreneurs in selecting a structure do not adequately position and sequence business, legal or governance advice in a way that supports social entrepreneurs in addressing the tensions that they may experience. Further, current models do not fully

recognise the issues surrounding the congruence of structure with the issues related to the operation of the business and governance models.

The importance of the business planning process and the development of a business model as a sound basis for trading are well understood. As Dees, Emerson, & Economy, 2001, p. 273) note, business planning provides a range of necessary outcomes; by creating a "clarity of direction", "knowledge of the market place", "strong commitment from stakeholders" as well as helping to "attract investment". The argument advanced here is one that concerns not only the social entrepreneurs(s) understanding and articulation of their business through the vehicle of a business model but also a clear understanding, clarification and articulation of their own orientations towards organising through a governance model. The accounts of the business adviser participants in this research strongly support the notion that the development of a business model as the outcome of a business planning process is the necessary first step towards selecting a structure for the new enterprise [See findings section 4.4]. This position is further supported by Mills (cited as in Conway, 2008) who suggests; the 'normal' advice before selecting a legal entity is to develop the organisation's mission and business plan prior to the selection of structure. The sequencing logic being applied does not seek to imply the primacy of the enterprise mission (market logic) over the social mission (social logic) nor institutional ambiguity in the motivations of social entrepreneurs (See Townsend & Hart, 2008) but simply that without trading there is no sustainable social enterprise activity whatever the primary motivation. The argument being advanced is rather one of congruence of organisational components with a structure in which a business model developed through a business planning process is followed by the development of a governance model that reflects the social entrepreneur(s) orientations towards organising and also acts to enable the business model to operate effectively within the construct of the chosen structures. The development of a business model (Teece, 2010) by social enterprises through the business planning process is generally accepted to be problematic (Bull & Crompton, 2006; Bull, 2007; Chapman, Forbes, & Brown, 2007) and that the business model developed should be a social enterprise business model (Pearce & Kay, 2003) that not only reflects the commercial aspects of the business operation but also the social aims and targets (hybrid

logic). In further respect of the notion of social enterprise business and governance models, participants also expressed concern for the validation of their practice via the rhetorical strategy of adopting accepted measurement mechanisms such as Social Audit (Spreckley, 1981, 2000, 2011, 2015) [See findings section 4.4 & 4.5] or Social Return on Investment (SROI) (Nicholls, Lawlor, Neitzert, & Goodspeed, 2012) in order to generate categorical acceptance and legitimacy (Klemelä, 2016) especially when they perceived that their structure was on the margins of the dominant social enterprise category. As with the discussion earlier in respect of governance model(s), this thesis does not seek to prescribe any particular business planning process or business model (See Grassl, 2012) but rather, stresses the importance of the role played by the business model in the structure selection process. The current models that are designed to assist social entrepreneurs in selecting a structure do not adequately position and sequence business, legal or governance advice in a way that supports social entrepreneurs in addressing the tensions that they may experience. The importance and availability of high- quality business and legal advice has been discussed earlier in this thesis alongside suggestions as to the timing and integration of some of these interventions.

The accounts of the business adviser participants [See findings section 4.4] suggest that initial support interventions should be driven by the business model design or review such that business advice should be the first form of advice sought by the social entrepreneur(s). Once the initial business model has been developed, the next logical step would be to develop a governance model with support from either a business adviser / management consultant with the appropriate skills and knowledge or to seek appropriate legal advice at this stage. The aim at this stage should be to arrive at a governance model that is congruent with the business model i.e. a set of ownership, decision making and strategic leadership arrangements that whilst satisfying the organising orientations of the social entrepreneurs will enable the business model to operate effectively. The findings highlighted that if the advice sought in developing the business and governance models is from different sources then it is helpful to co-ordinate the decision making process of the final selection of an initial or new structure [See findings section 4.4]. The aim of this co-ordination of advice should be to ensure that all of those advising the social

entrepreneur(s) fully understand the implications of a structure selection that is congruent with the business, and governance model of the enterprise. It has so far been implied that advice is sought and received via face to face intervention with advisers but given the availability of advice (Spear, Cornforth, & Aiken, 2009) this advice may by necessity need to be accessed from a variety of sources i.e. face to face, online or from guidance documents. Regardless of how the social entrepreneur(s) receive advice the accounts of the business and legal adviser participants [See findings section 4.4] support the notion that the development of a congruent business and governance model will better articulate the business and its governance arrangements thus enabling them to provide more appropriate advice concerning the selection of a structure for the enterprise. The current structure selection models do not fully recognise the issues surrounding the congruence of structure with the issues related to the operation of the business and governance models developed or that these components are important precursors to structure selection. The evidence advanced for this argument is found in the accounts of the social entrepreneurs in this research and the subsequent decoupling (Vurro, et al., 2010) by some of their business and/or governance practice from the institutional logics of the dominant social enterprise category [See findings section 4.2 & 4.5].

The current practice models fail to recognise the tensions between the organising orientations of social entrepreneurs and the available structures within the social enterprise category, assuming instead that once a particular decision has been made on the decision tree or flow diagram then the tension no longer exists or is resolved by the social entrepreneur(s). The current models, in failing to recognise the tensions between the organising orientations of social entrepreneurs and the available structure within the social enterprise category provides no outlet for the resolution of this tension and serves to drive the categorical imperative for social entrepreneurs to select structures that conform to the current institutional orientation (Vurro, et al., 2010) or institutionalised template for organising (Battilana, et al., 2009). This thesis, in explicating the tensions faced by social entrepreneurs in selecting a structure for their enterprise seeks to contribute to practice and theory by advancing an argument for the development of new forms of structures for social enterprises

in the resolution of those tensions through processes of institutional entrepreneurship.

6.1.1 A practice model for social enterprise structure selection.

Having discussed the important issues highlighted by the social entrepreneurs and their advisers in this research concerning the selection of structures, a practice model (Figure 6.2) for the selection structures for social enterprises is now advanced.
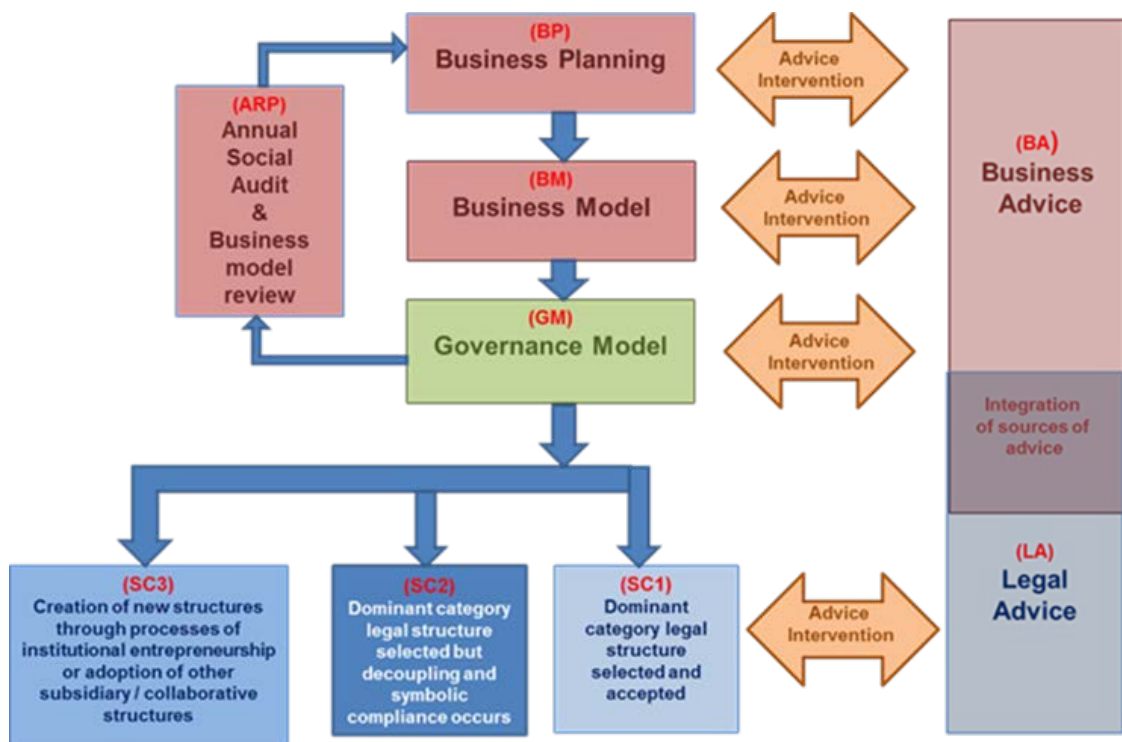

Figure 6.2. A practice model for social enterprise structure selection

The aim in presenting such a model is not to promote a particular category of social enterprise or related structure but rather to illuminate the important components to be developed in the selection of a congruent structure. At the risk of further proliferation of the choices for social entrepreneurs it is hoped that this new model might stimulate some degree of institutional entrepreneurship (Battilana, et al., 2009) in the development of new approaches and structures. Further, that these new structures might more adequately address the tensions between the organising orientations of social entrepreneurs and structures that are prioritised or marginalised by external factors.

Current practice models present structure choices as a rational set of decisions based firstly upon the securing of investment from private investors or the general public. If investment is not required from these sources then the question raised relates to the number of people involved in the Social Enterprise. If this is more than one then an Industrial Provident Society (IPS) or un-incorporated Association is suggested. If there is only one person involved, then sole trader status is suggested. However, if investment is required and this from public sources then the question asked pertains to whether the social enterprise has solely charitable purposes or not? If the purpose is charitable then a charity or private company is advised, otherwise, a form of ethical public offering is suggested. Should investment be required and this is to be from private investors then the question asked pertains to the need to return all of the profit made by the social enterprise to investors? If this is the case then a private company limited by shares (CLS) is advised. Otherwise, a Community Interest Company (CIC) is suggested (adapted from Morrison Foerster & Trust Law, 2012).

Departing slightly from this approach to structure choice, Cox (2006, p 27) proposes a formula of "organisational model + business model + legal/financial structure = organisational structure". Here an organisational model based on the philosophical antecedents to ownership is the first consideration. Four possible choices are suggested with regard to ownership: co-operative in which the enterprise is owned and controlled by all the people involved in it; private, in which the enterprise is controlled by one or a few of the people involved in it; charitable, in which the enterprise is owned and controlled by people with no financial interest in it; multi-stakeholder, in which the enterprise is owned and controlled by a number of stakeholder groups including staff. The legal/financial structures for each are, respectively: a guarantee company (or CIC), a share company (or CIC), a society (Co-op or Community) and a Limited Liability Partnership. Following on from this, organisational structures relating to each are suggested as the: cooperative limited liability partnership, charitable community benefit society, non-charitable but not for profit guarantee company and community interest share company.

The proposed practice model (Figure 6.2) however, seeks to present each of the components necessary for the selection or reselection of a congruent structure via a cycle of initial planning or annual review that encompasses both the business model (BM) and governance model (GM) for the social enterprise. A very intentional sequencing of events is suggested and one that is primarily driven by the business model of the enterprise followed by a governance model that incorporates the social entrepreneur's ownership and decision-making orientations. The sequencing presented in this model directly implies a primacy of the economic mission (market logic) as expressed in the views of the participants in this research [See Findings, page 87-88].

This model suggests that advice is taken at each stage of development or review, with business (BA) and legal/governance advice (LA) overlapping in order to suggest a degree of integration that is absent from current singular approaches to social enterprise advice giving. It is recognised however, that this might only be practicable in some instances and not in all cases. In respect of governance advice, findings suggested that the research participants did not seek specific governance advice per se but rather regarded this as either legal advice or an extension of the business advice process. This is perhaps understandable given the issues surrounding the availability of advice generally and the paucity of governance advice particularly (Spear et al., 2009). Further, for established social enterprises it is anticipated that advice might be required but with a greater emphasis upon review as the organisation's skills, activities and resources grow. For some social enterprises it may not be feasible due to costs or local availability to obtain face to face advice and so an advice intervention point may need to be supported by online resources, paper-based tools or guidance documents.

Following the development of a business model and associated governance model, it is suggested that an annual review process (ARP) such as Social Audit (Spreckley, 1981, 2000, 2011, 2015) [See findings section 4.4] is undertaken annually. Though some form of social audit is suggested I do not seek to specify how this is undertaken or which model (See Kay & McMullan, 2017) is used but only that the vehicle of social audit may provide social enterprises with a mechanism for review that supports the enterprise in maintaining congruence of

business model, governance model and structure. In accordance with the developing practices of social enterprises seeking to adopt multiple structures via collaborative arrangements (LLPs) or subsidiary trading arms, the process of institutional entrepreneurship is presented here as being within the same selection and review processes.

Where the tensions surrounding adherence to the social enterprise category and the social entrepreneur's own orientations towards organising are resolved, then the social entrepreneur will select a structure (SC1) that complies with the institutionalised template for organising (Battilana, et al., 2009) of the social enterprise category. However, where these tensions remain in conflict then two outcomes are open to the social entrepreneur(s). Firstly, they may select a structure (SC1) that complies with the institutionalised template for organising (Battilana, et al., 2009) of the social enterprise category and then decouple their business and/or governance practices from that template (SC2) in order to resolve the conflict through symbolic compliance (Batory, 2016; Edelman, 1992; Fiss & Zajac, 2006). Secondly they may, through processes of institutional entrepreneurship (Battilana, et al., 2009) seek to adapt or create a new institutionalised template for organising (Battilana, et al., 2009), a new structure or a new category (SC3) (See Ridley-Duff, 2015; Lloyd, 2006; Health & Wellbeing Partnership, 2018).

Having presented a practice model for the selection of structures by social entrepreneurs it is important to note that it is not my intention to prescribe a formula or flow chart solution to structure selection in the style of the current practice models. Rather, the intention is to provide a basis for the development of the core business and governance models of the enterprise as precursors to the selection of a structure in a way that recognises both the institutional logics of the social enterprise category and also the social entrepreneur's own organising orientations, particularly in respect of ownership and decision making.

Finally, in recognising the agency of social entrepreneurs in this model I seek to promote the processes of institutional entrepreneurship so as to encourage the development of new, innovative templates of organisation, structures or

categories of social enterprise rather than supporting acceptance of the social enterprise category and the governing of the structure choices of social entrepreneurs.

6.2 Contribution to knowledge.

The contribution to knowledge made by this thesis lies in challenging current theorisations as well as current knowledge and practice related to social enterprise structure selection. Additionally, a contribution is made in the practical utility of the insights developed (Corley & Gioia, 2011) into the understanding and interrelationship of the components of social enterprise structure selection processes that are grounded in the experiences of social entrepreneurs and their advisers.

Departing from the current linear rational theorisations of social enterprise selection (Bates, Wells & Braithwaite, 2018; Cox, 2012; Department for Business, Innovation and Skills, 201; DLA Piper & UNLtd, 2014; Frail & Pedwell, 2003; Morrison Foerster & Trust Law, 2012; Social Enterprise UK, 2017a Wrigleys Solicitors, 2014) and building on the conceptualisation of the different organisational identities of what is regarded to be a social enterprise (Bull, 2015), this thesis contributes to the extension of current theory by blending (Oswick, Fleming, & Hanlon, 2011) social entrepreneurship and institutional theory in order to frame the social enterprise structure selection process as an ongoing field of tensions between the social enterprise category of organising governed by powerful actors and social entrepreneurs' own orientations of towards organising.

The insights I present in this thesis extend the current social entrepreneurship discourse by providing scholars with a deeper understanding of how social enterprise structure selection is disciplined by powerful actors such as government, funders, and kite-marking bodies who seek to construct social enterprise activity into a category of organising.

A further contribution to theory is made in explicating the responses of social entrepreneurs to this disciplining of social enterprise activity as they are driven

to create new structures rather than selecting a structure in a linear rational way from within the social enterprise category as is presented as current practice by support organisations, government and funders. Further, that once structure selection choice is made that social entrepreneurs then may either decouple their organising practice or create and seek legitimacy for new social enterprise structures such as the SELLP, NewCo and Fair-shares. Here, I contribute to knowledge through the provision of a multi-level understanding of structure selection that examines the interplay between macro-level environmental influences and the micro level organising orientations of social entrepreneurs where previous works have examined singular aspects or focused upon linear approaches to structure selection. Additionally, the responses of social entrepreneurs to such disciplining are also explicated.

In a further contribution to knowledge, I locate the new SELLP and Fairshares structures currently being adopted into practice within an adaptation of the conceptual framework presented by Bull (2015, 2018). Bull (2018), in presenting a new theoretical model for defining social enterprise in the United Kingdom (UK) based upon three core types of social enterprise recognises their constitution in law as the primary lens and therefore views them in terms of their incorporation and regulation rather than emphasising a not for profit or profit-plus perspective (Bull, 2018). Recognising that these different organisational forms have characteristics that cannot be simply reduced to 'market' and 'social purpose' logics serves to identify them more accurately than any previous singular definition might. The three organising characteristics (or institutional logics) identified on each axis of Bull's (2018) model that are characterised by market, social welfare and hybrid logics are, it is argued, the focus for the tensions in satisfying these logics within each structure in terms of the generation of social value versus the need for trading income and the delivery/protection of social purpose.
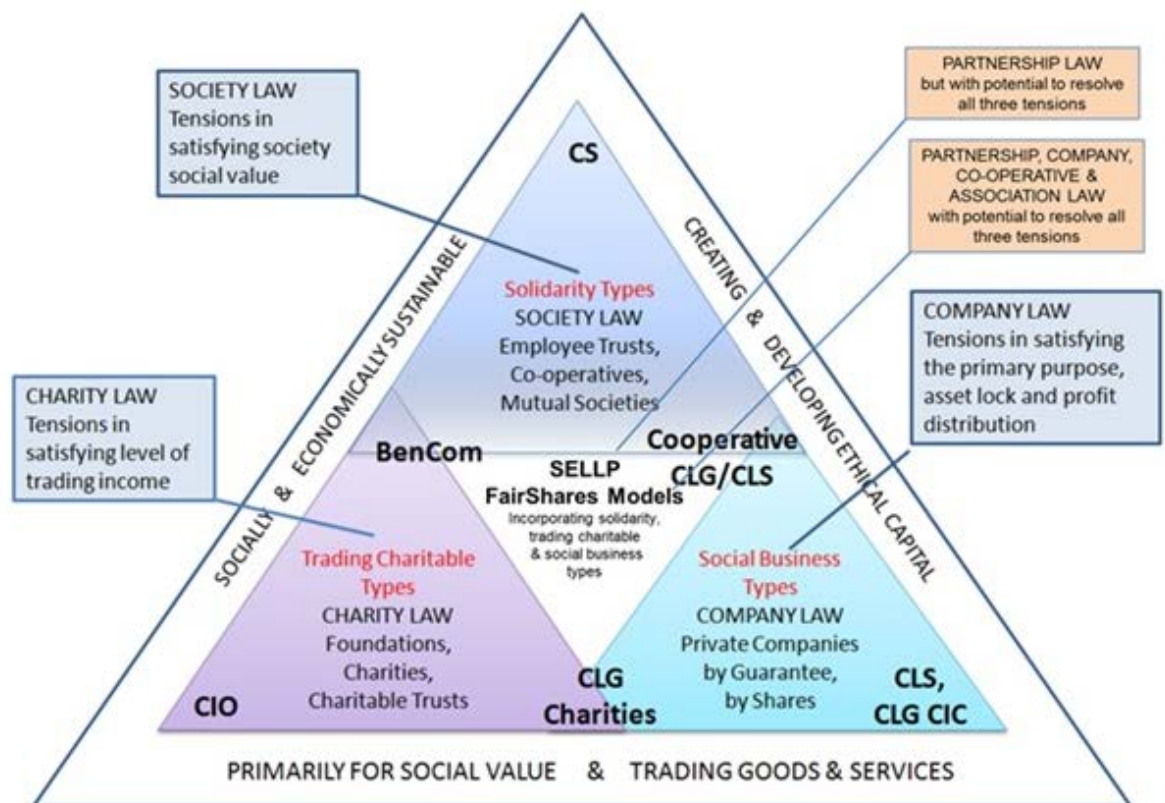
Figure 6.1 Social enterprise legal structure model (Adapted from Bull, 2015,2018)

Within this framework, three core types of social enterprise are theorised as: 'Solidarity', 'Trading Charity' and 'Social Business' in terms of their incorporation, rather than from a sector perspective. Bull (2015) highlights that social enterprises may straddle two types; such that of the Community Benefit Society (CBS) that is incorporated in both society and charity law, the Company Limited by Guarantee (CLG) Charity incorporated in both charity and company law and the Company limited by Shares (CLS) / CLG Co-operative incorporated in company law but operating as a CLS with democratic principles that are associated with solidarity types. In adapting the work of Bull (2015, 2018) I conceptualise these new structures at the centre of the Bull's model and the tensions between the three types of organising principles with the SELLP constituted as a hybrid form of business entity (neither a partnership nor a company but a form of LLP), and the FairShares Models under co-operative, partnership or association law (See Figure 6.1; adapted from Bull, 2015, 2018).

In a later development of this work, Bull (2018) suggests that the central space of his practice model is left blank as there is no 'ideal type' of social enterprise in

the UK. However, I argue here that the SELLP could fill this space as it has the capability to accommodate the four principles of social enterprise in the outer of the model alongside concurrently accommodating the three social enterprise types conceptualised within, alongside the capability to resolve all three of the organising tensions posited by Bull (2015). It could be argued that this might be simply a Limited Liability Company (Bull, 2018), however, the SELLP is a hybrid form constituted under LLP law. Further, this would be to oversimply the importance and flexibility of this structure as currently being operationalised by the Health and Wellbeing Partnership (2018). I present this conceptualisation therefore as a form of 'complex' or 'dense' hybrid organisation that may provide the vehicle to resolve the tensions between market and social logics alongside the tensions that also exist between several competing social logics, within one collective structure.

6.3 Limitations and further research.

6.3.1 Limitations.

As with most research, this study has a number of limitations. The participants in the research were primarily drawn from social entrepreneurs and advisers of social entrepreneurs based in the North of England, and it could be argued that they may have presented a particular socially or politically located view of social enterprise activity as a result. However, it can be said that many of the participants had been engaged in social enterprise or advice activity in other parts of the United Kingdom and overseas so may act to balance the above criticism. Due to the nature of the structures available to social enterprises being grounded in the national legal frameworks and traditions of individual countries the findings of this research can only be said to apply directly to the selection of social enterprise structures in England. This said, I argue that though structures may differ, the notion that tensions exist between institutional demands and individual orientations toward organising may well be present in many national contexts.

Further limitations may be identified regarding the extensive use of the institutional logics view as an analytical lens with which to view the structure

selections of social entrepreneurs. However, institutional logics were adopted as useful summary devices to help to make sense of the norms and practices surrounding social enterprise structure selections. Despite the possible critique that the institutional logics approach does not generally acknowledge agency, this thesis does consider the dynamic intersection of both the micro level orientations of social entrepreneurs and the macro-level logics of social enterprise activities in explicating social enterprise selection of structures.

By way of yet further limitations, some of the social entrepreneurs or their advisers in this research related their historic experience in their interviews., Therefore, some of their critique of the CIC structure may now be less meaningful as some of the investment difficulties that they related may have been alleviated in part by the increase in the cap on the payment of dividends to shareholders.

6.3.2 Future research.

There are a number of important issues raised in this thesis concerning the availability, quality and nature of advice available for social entrepreneurs in relation to developing appropriate business models and governance arrangements that would benefit from further in-depth research.

The research participants clearly expressed concerns in respect of access to high-quality governance (Spear et al., 2009) and business advice (Bull & Crompton, 2006; Bull, 2007; Chapman et al., 2007) which they found to be problematic. This would appear to be juxtaposed with the arguments presented by research for the European Commission seeking to map the UK social enterprise eco-system (European Commission, 2014) that suggests that there are a large number of publicly funded support schemes alongside networks and mutual support schemes available for social entrepreneurs to access. The concerns expressed by the research participants may be in part due to the geographic coverage of support organisations or to lack of awareness of the support available. In either case, it is beyond the purview of this research activity to map the support currently available for social entrepreneurs and this must remain for further research.

In addition, future research may usefully explore the utility of the practice model advanced in this thesis alongside issues of practitioner response to its implementation so serve to further develop the practice of social entrepreneurs and their advisers in selecting structures.

6.4 Personal reflection.

My journey through the DBA programme began back in 2011 when I was invited alongside a group of sixteen other colleagues and external candidates to join the in-house Doctoral cohort at Sheffield Hallam University, all of whom it appeared to me to be far better qualified than I to complete such a programme of study and research. Despite my early feelings of trepidation I found the taught element of the Doctor of Business Administration (DBA) programme to be a hugely energising and intellectually stimulating experience. The shared experience with the other students was a supportive and rewarding experience as we learnt together what it was to undertake a doctoral degree programme. We all wrestled both together and alone with philosophies of knowledge as we began to understand the implications and role of our own ontological and epistemological assumptions to our putative research projects.

The taught element of the programme with its four assignments presented some great highs and a few lows. Firstly the highs associated with beginning to engage intellectually with my subject area of management at a very different level to my previous Masters studies. In this respect, I will always look back fondly on this time of energetically devouring book after book, journal article after journal article, even those concerning research methods and philosophy. Secondly the lows; spending many solitary hours away from my family working on draft after draft of various passages writing only to tear them up in frustration.

During this period, the receipt and assimilation of feedback was a tremendously important aspect and one worthy of mention. At this time I was very early in my teaching journey and the giving of feedback was a developing skill, so for me the receipt of feedback provided an opportunity to reflect upon my own practice. One particular experience stays with me and this concerned the feedback that I received for my final assignment paper. The lesson comes from the following

words written on the cover page of my paper; "this is beautifully written", wow, great, followed by "though I am not sure, quite why you have written some of it", ah, I see what you mean…. be clear and concise in your argument. So my message as a student was "be as clear and concise as possible" and as a teacher, that feedback needs to have both meaning and utility for the student.

The next big step was completing the taught element of the course and subsequently succeeding in passing my DB2 research proposal, which was itself a truly energising point in the journey as I could now really get to grips with the practical fieldwork. I have been involved in the practice of social enterprise for many years as a Director and as a professional responsible for the government's business support programme for mainstream and social enterprise start-ups in the Yorkshire region so was very enthusiastic about engaging in the research fieldwork. Not surprisingly I found the fieldwork to be a thoroughly enjoyable experience as I was privileged to engage with some very interesting, knowledgeable and experienced social enterprise practitioners who freely gave me their time and their thoughts, something for which I will be eternally grateful.

The analysis of the data I had collected at first seemed insurmountable as I pondered the sheer volume of pages of transcripts but then the decision to get to grips with the Nvivo software package really paid off as I started to code. Patterns were developed from immersion in the data that were formed into themes and then further developed into new ideas. Having chosen an inductive approach grounded in my interpretation of the data I had worried hugely as to whether any new theoretical insights would be generated but as the analysis continued an extension to another academic's theoretical classification model emerged and this was followed by my own practice model. However, having completed the fieldwork and undertaken the analysis things got harder and harder as I struggled to articulate my findings. Here, days of progress were punctuated by days of frustration in pages of text written and then deleted. At this point, I began to reflect on the efficacy of the approach that I had taken in trying to condense my writing efforts into one semester. However, a huge vote in favour of very good supervision as my supervisory team stepped in and suggested that I construct a storyboard of my arguments in order to help to articulate my findings which was followed up with a quick review of what I'd

written so far. So some useful feedback, some confirmation of approach and some gentle encouragement and swift progress began once again.

Once the findings had been articulated then began the 'intellectual heavy lifting' of constructing the Discussion Chapter as I started to conceptualise the outcomes of my research into an effective contribution to both theory and practice. During this phase I was encouraged to make a contribution to an International Conference of the International Society for Third Sector Research (ISTR) based on my findings and early conceptual modelling. As I reflect on the writing of my paper for the ISTR conference; this acted to give me a renewed sense of encouragement and a greater degree of confidence in myself as a researcher who could make a contribution to theory and practice that held both interest and utility not only for practitioners but to the broader community of social enterprise researchers. At this time, my Director of Studies also approached me to discuss contributing a chapter to a future edition of the textbook 'Understanding Social Enterprise' (Ridley-Duff & Bull, 2015) and for the first time in my doctoral journey I began to truly see the completion of my DBA as the beginning of my journey as a researcher rather than the end of my journey as a student.

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Appendices.

Appendix 1. Interview invitation letter.

Invitation to be interviewed for Doctoral research into social enterprise legal structure selection,

Date ../../….

Dear …………………………

This letter is an invitation to consider participating in a study that I am conducting as part of my Doctoral degree in the Department of Management at Sheffield Hallam University under the supervision of Dr. Rory Ridley-Duff. I would like to provide you with more information about this project and what your involvement would entail if you decide to take part.

The selection of appropriate legal structures for Social Enterprises has been the subject of much practitioner and Government debate over the past ten years as Social Enterprises have sought to protect both their assets and their social purpose whilst trading effectively in often highly competitive environments. Structure choice may have wide ranging and profound implications for investment/funding options and trading opportunities as well as the protection of social purpose and/or assets. Both of these factors are important in respect of the financial health and business growth of social enterprises alongside the generation of social capital and therefore legal structure choice is the focus of this research project.

The purpose of this study, therefore, is to seek to more fully understand the factors that influence Social entrepreneurs in choosing the structures that they adopt for the organisations that they create.

This study will focus upon the decision choices made by social entrepreneurs around the legal structure(s) of their enterprises; the journey that led to this selection, the influences that played a part, the decision process(es), the support sought or received and the eventual appropriateness of the structure(s) selected.

Therefore, I would like to include yourself and your organisation as one of several social entrepreneurs and/or advisers of social entrepreneurs to be involved in my study. I believe that because you have and are actively involved in the field of social entrepreneurship, you are best suited to speak to the various issues surrounding legal structure selection.

Participation in this study is voluntary. It will involve an interview of approximately one hour and thirty minutes in length to take place in a mutually agreed upon location. You may decline to answer any of the interview questions if you so wish. Further, you may decide to withdraw from this study at any time without any negative consequences by advising myself as the researcher.

With your permission, the interview will be recorded to facilitate the collection of information, and later transcribed for analysis. Shortly after the interview has been completed, I will send you a copy of the transcript to give you an opportunity to confirm the accuracy of our conversation and to add or clarify any points that you wish.

All the information that you provide is considered completely confidential. Your name will not appear in any thesis or report resulting from this study without your consent, however, with your permission anonymous quotations may be used. Data collected during this study will be stored securely at the University and to which only I and my supervisors will have access. There are no known or anticipated risks to you as a participant in this study.

If you have any questions regarding this study, or would like additional information to assist you in reaching a decision about participation, please contact me on 07864 641541 or by e-mail at j.odor@shu.ac.uk. You can also contact my supervisor, Dr. Rory Ridley-Duff on 0114 225 5247 or by e-mail at r.ridley-duff@shu.ac.uk.

I would like to assure you that this study has been reviewed and received ethics clearance through the Research Ethics Committee at Sheffield Hallam University. However, the final decision about participation is yours.

I hope that the results of my research will be of benefit to those social entrepreneurs directly involved in the study, other social entrepreneurs or social enterprises not directly involved in the study, as well as to the broader practitioner and researcher communities.

I very much look forward to speaking with you and thank you in advance for your assistance in this project.

Sincerely,

(Signature)   (Signature)

Jules O'dor   Dr Rory Ridley-Duff

Department of Management   Department of
Management

Sheffield Hallam University   Sheffield Hallam University

Appendix 2. Participant interview questions

Interview Question set for social entrepreneur / social enterprise leaders.

1. Tell me about the formation of your Social enterprise, from the very beginning?

2. What structure does the organisation have and how was that decided? By whom? Has it changed over time and in what ways? Do you feel this was, and remains, the most appropriate structure?

3. In what ways does your organisational structure facilitate the participation of stakeholders, if at all? Who would you consider your key stakeholders to be and how important is their involvement to you? Are the organisation's assets and Social purpose protected, such that they could only be used for their original purpose and that the organisation continues to meet its social aims?? If so, how?

4. Having discussed your enterprise formation journey, on reflection is there anything that you might have done differently?

5. How might you describe the ideal structure for your enterprise?

6. How would you describe the strengths and drawbacks of the current structure?
   What was the primary driver for you personally or your team as Social Entrepreneur(s) in selecting an appropriate legal structure?

7. What advice did you seek / take in the selection of your legal structure and why? How effective did you find it?

8. Can you say from whom you took advice? Does this relationship continue/ if so in what form?

9. Is there anything that you would like to say about Social Enterprise legal structure and its selection?

Participant interview question set for social enterprise advisers.

1. Do you or have you in the past, provided advice to social entrepreneurs on legal structure?

2. What form did this advice take?

3. Did / does this advice relate to new or existing Social Enterprises?

4. In terms of the organisations that you have worked with, what do you see as the key issues raised in terms of legal structure selection by;

    a. New social enterprise formations?

    and/or

    b. Existing Social Enterprises?

5. Were the issues advised upon resolved as far as the Social entrepreneurs were concerned? Were these issues resolved as far as you we're concerned?

6. If so, how? If not why not?

7. Do you believe there to be any issues concerning Government policy or legislation in respect of the issues that we have discussed so far or others that we have not yet touched upon?

8. Do you provide advice to policy makers and or government on the issues of Social Enterprise legal structure selection? What is the nature of this advice? Could you talk me through an example or a particular instance in regard to this?

9. Are there any other issues related to Social Enterprise legal structure selection that you feel is important?

Appendix 3. Anonymised interview field notes.

(transcribed in reverse order).

Participant 15.

Background

Worked at xxxx for eight years as a finance solicitor followed by three years at xxxx advising social enterprises and charities on governance, structure, making money, funding, property, IP, HR, regulation and compliance etc. Specialist team, core charity and social enterprise. **NOTE:** Law firms also give business advice.

New social enterprises; tend to advise CBS's, Co-op's more than CIC's particularly around finance, community shares etc. Often concerning raising capital (public hares or bonds) around £ 500,000, £ 1,000,000.

Should CIC's get CBS benefits in terms of raising public capital - issues around share capital. Notes Governance and democratic nature of CBS.

Seeing increasing number of CIC's, folk still connected with CLG structures; issues more investment and ownership. Issues of investment and return for SE's.

> "I think people are still nervous about what a CIC actually means for
> them and how if they're for example going to invest quite a lot of
> money from the outset in that organisation how they're actually
> going to get that money back out again".

> "So we have seen circumstances where people have set up CICs,
> invested their cash but not realised actually getting that back out
> may be tricky depending on how they've actually invested it."

Entrepreneurial SE's managing risk, investment and need for profit. Need to return investment. Need to generate social benefit vs risk and return. The enterprise is very much their baby and why would they relinquish that to an independent board… fear, running this thing, independent board to oversee things…. success of CIC might be the scrutiny from independent board but accountable and confident…for the SE.

> "I want to benefit the community but that is, that shouldn't be at the
> expense of me not being able to control either the risk to me or my
> ability to be able to take the investment that I put into this back out
> again. So I think you are still seeing those two competing interests
> of being able to want to provide a genuine social benefit as well as
> protecting the private reason and rationale as to why somebody
> invests in the first place".

> "the statement that I would quote more often than not is that people see their enterprise as their baby and I completely – completely get that and so why would they therefore relinquish control of it to a genuinely independent board of directors? There's still this sort of feeling of – of fear. Well if I – if I'm running this thing I feel nervous about allowing an entirely independent board to oversee my work".

Funder concerns over governance, due diligence focus on board and its skills, professional basis of business action. Drive for growth and the move on from grants to debt finance - investment readiness with the aim of sustainability.

> "I think as funding options contract I think you will find funders being increasingly concerned about the governance of the organisation in which they're – they're working. So I can think of a number of – a number of charitable foundations that I work whose due diligence focus up front will be to focus quite heavily on the governance of an organisation, understanding exactly who – what the make-up of that board is and also the skills within that board and understanding that that is going to drive a more professional basis on which a particular social enterprise acts".

Reputational risk, poor governance reflects badly on the investor…. Usually failure is through failure of governance, irregular payments etc. Responsible lending or funding, going beyond an return only relationship.

> "that investors are increasingly nervous of is reputational risk of investing in organisations where poor governance within that organisation actually can then reflect very badly on the investor and sort of raise all sorts of reputational queries about why the investor has made that investment in the first place. It's usually the fact that when you think about this from the large problems that have occurred with charities and social enterprises over the past ten years, it is usually a governance failure that has resulted in the fall or failing of that organisation – particularly around where individuals have been found to have made irregular payments to themselves from their social enterprise out of a governance failing that's caused that."

Need for grant support; SE not wanting to relinquish control and needing grants, not resolved. Charity givers can through legislation cant fund core costs of a non-charity social enterprise. Not resolvable.

Established social enterprises; more sophisticated management, boards etc. need for legal advice tends to fairly modest. New trading arms, managing risk, not some much tax considerations, raising funding for new business streams and growth.

Top three issues;

      a. Control and not to relinquishing control and be paid.
      b. Raising funds - grants, asset lock so CBS or CIC. Possible CBS and community   share issue
      c. Access to advice that is readily available to give them confidence to start up.

Quality and availability of business and legal advice.

"Legal advice has to be given in the context of a commercial issue"

Legal questions almost all ways a commercial context and need to understand this and it's about professional relationship between advisers.

"I think it's more of a – it's a relationship thing between professional advisors and clients. Now that might be business advisors, it might be lawyers, it might be accountants…"

Test of sequencing arguments;

Need to come for legal advice at the right time; integrated advice "legal considerations" during business planning as their business plan might not be accommodated legal structure.

"a number of times we will feel that possible a social entrepreneur has come to us a kind of the wrong stage. And that might be because they need to develop their business plan further or potentially because they've taken their business plan so far that they – they've not counted for a particular legal nuance, which means that actually doing their… offering their business plan the way it wants to is impossible. So I kind of think that these things need to be – need to be kind of going on at the same time. So it's not necessarily the degree of sequencing, it's as you are undertaking your business planning have you considered the legal ramifications of that?"

Ideal accountants; lawyer's business adviser's etc. financial and legal concerns so all understand the issues.

"So I mean the ideal scenario would be – at the appropriate stage
would be sitting down with a set of accountants and a set of lawyers
at the same time to almost thrash out what the sort of the main five
issues on either side of that debate are. And so the lawyers and
accountants then understand what the – what the particular financial
concerns are from a legal point of view and the other way around
what the legal concerns are from an accountant's point of view. So
everyone understands what the issues are and so ideally that would
be the case rather than being in a situation where you're talking to
your lawyers and your lawyers are telling you, that's an accounting
issue, you need to go and speak to your accountants and probably
vice versa and then you are having a series of bi-lateral
conversations, which don't quite get at it".

Sound boards…… before structured advise… cost concerns, but can be carefully managed.

Structures for social enterprise not straightforward… understanding what to do in what order almost prevents SE's starting.

Need advisers to recognise the need for an integrated approach…..advisers to see the bigger picture…..

Issues for Govt policy; firm have fond feelings for CBS, not registered at Company's House, lower profile so HMRC view, might be more high profile amongst funders etc.

Quality marks and labels - Co-ops UK community shares badge, good measure of quality but badging everything causing organisations to confirm and reconfigure so causes distraction when trying to fit a structure that doesn't fit.

"I think this sort of badging everything as either being quality or
missing, or being outside the box is causing the organisation to then
make decisions about what they are, what they live and breathe and
then try and reconfigure what they're doing to fit within that
definition, which inevitably takes them away from what they were
trying to do in the first place."

CLS perfectly legal form for a social enterprise and capable of delivering social purpose, doesn't have all the external audience but perfectly good vehicle.

"…. when you think about the legal structures that are out there, when you think
about what are the definitions of a social enterprise are, any of those – the CLS
is a perfect – a perfectly decent legal form for a social enterprise. It – it – it is

capable of delivering social purpose. The question really is to – what are the protections around it that assist the outside world looking in – it doesn't have but it nevertheless is a perfectly adequate vehicle for perhaps the wider definition of social enterprise."

"I think it's that sort of… it's that feeling that – that what you are has been taken – the definition of what you are has been taken possession of by somebody else… doesn't seem to me to be overly helpful."

LLP working with a for-profit and community focused businesses, private sector expertise alongside community connection, skills etc. to run an asset or service.

Use of language - lawyers to ensure compliance but making sure that the language of SE and that of the legal profession can be an issue… needs to aligned through understanding.

The people in the legal partnership drive the involvement, notion of a socially motivated legal practice. Voluntary commitment, boards and practice connection allows and understanding of the pressures. Stakeholders in the social sector, having ownership.

Did we need the CIC? CBS could do everything that we needed to do.

Participant 14.

Background

"I suppose my story is also quite closely linked to the story of social enterprise, because I've always been at the sort of front of it all and aware where things have been happening, and a lot of the developments and changes that I've had are also mirrored, I think, in the social enterprise movement."

Worked as a social worker in the voluntary sector.

Left-wing politics, suggests that this is still very much part pof the SE sector today.

Got involved with xxxx and from being a small voluntary organisation, set up about five major businesses. Also struggling with legal structures! At this point employed **xxxxxxxx**, who then was at Beechwood College, as a consultant,

Then became involved in the Community Enterprise movement but later went into the private sector and set up a very successful managed workspace company, learnt a lot about the private sector.

Issues discussed

Definitions

Freer Speckley Defintion.

http://www.britishcouncil.org.ua/sites/default/files/social_enterprise_planning_toolkit.pdf

Southcombe: (independent, business focused, democratic, accountable and community based)

Five principles of Community Enterprise (wiki)

1. community based, owned and led

2. engaged in the economic, environmental and social regeneration of a defined area or community

3. independent but seek to work in partnership with other private, voluntary, and public sector organisations

4. self-sufficient or for self-sufficiency, and not for private profit.

Scotland - DTA Scotland

1. are owned and managed by the local community

2. aim to achieve the sustainable regeneration of a community or address a range of economic, social, environmental and cultural issues within a community

3. are independent but seek to work in partnership with other private, public and third sector organisations

4. aim to reduce dependency on grant support by generating income through enterprise and the ownership of assets. All trading surpluses are principally reinvested in the organisation or the community.

Origins;

See Freer Spreckley definition.

http://www.britishcouncil.org.ua/sites/default/files/social_enterprise_planning_toolkit.pdf

"It became the term for a small group of people and historically, what's happened now is others have looked back and said, 'Oh yes, we were always social enterprises,' and I think, 'No, you didn't, you'd never heard of the term until 2000.' All through the 90s it was a small group of people who were using the term social enterprise."

Political viewpoint on SE definition…

"But we're not saying that all really, we're saying that we call social enterprise now is actually just doing business and it's the best way of doing business, it's the most socially responsible."

"It's the high octane way of doing business and it's the right way to do business, so we're actually not part of a third sector or a different sector, we're actually part of that private sector, but the best way of doing it."

Reference to xxxxxx.

"xxxx is really good on this and I agree with him 100%. He said, 'Social enterprise is a grass roots movement, it's continually changing, and we are not in control of that change.' But people will try and control it, which is one of the reasons why I had real difficulties with the Social Enterprise Mark, and with any sort of given definition."

"It only matters when people like SUK start to try and position themselves, and say, 'We are the voice of social enterprise in the UK.' And you say, 'Well, a) you're not, and b) your definition is undemocratically arrived at and narrow, and who the hell are you?"

Public sector / private sector thinking….

"there is a large movement of people who have drifted from the public sector and the charitable sector and they don't understand that private sector thinking and to them it's still very alien. They don't realise it and it's very alien."

Structure

Complexity

"the other thing is that I do think that when you work at social enterprises, it's very rare that you end up with a simple model and quite often two-tier structures or multi things."

Structure as iterative process of evolution and discovery…

"So I think, as a social entrepreneur, that there would be two routes. One is you either strike lucky and you can come across someone like xxxx who really sorts you out! ((laughingly)) Or you understand that this is going to be a bit of a journey and be prepared to keep changing your structure and your organisation to meet as you're discovering, and that's how we work anyway. To say, 'I'll set up with this, but we might have to wind this company down and replace it because, in practice, this may or may not work.'"

Decision making - a process not a structure….

"what the social enterprise sector largely does not understand, which I think in Social Enterprise Europe we do, is that decision-making is a process and it's not a structure."

"<u>And a lot them think structure first, and think that that's how they deal with governance, that they look at a structure.</u> You don't, you look at what decisions

need to be made and the processes that you need and the people you need for different types of decisions, and so you're looking at a much more flexible thing."

FairShares Model

"what Fair Shares is to me, <u>it's not the structure, it's the principles</u>, and I find it so easy at conferences to say, '<u>Well, everyone who creates wealth should have a fair share, shouldn't they?</u>' You can't answer that, you can't answer it, and then you push home the point."

Relationship to structure

"but at the moment, the reason why the public sector and the charitable sector have structures is exactly the same reason why the private sector has structures, but the public sector has to make sure that's not money but its decision-making close to the top, and with charities, the decision-making flows to the trustees. And that's why imposing charitable and public sector governing processes on social enterprises is not good practice."

Relationship to business planning & business model

"I think one of the problems is that people get too quickly into the structure, so one, sort out your business model first, and then work out the sorts of decisions you will need to make that business model work and how you really want to work it."

Supports notion of legal structure being an outcome of Business Planning but…

"It is, except it's different, in so much that <u>the social entrepreneur will weave in the social purpose and their views of democracy into their business models</u> and instinctively do that."

Business driving the structure rather than the structure driving the business…

"It has to be, and what they don't realise is that actually you can, there are so many things like Golden Votes and things like that, tricks you can use to actually reflect what they really want. And if, at the end of the day, you end up with something which is acceptable to the peer group as being a social enterprise, great, they are happy to say they're a social enterprise."

But also legitimacy of practice and acceptance by practitioner community alongside funders…

Relationship to operational practice & divergence

"there is quite a difference between the formal structure and the internal structure, a massive difference, and to be aware of that."

"I think what happens to a third of these social enterprises who have got the wrong structure, well, they ignore their legal structure, they operate illegally and they operate differently. And what actually happens and what the constitution says are often two different things."

Flexibility & loopholes

"the other thing is people don't realise how flexible these structures can be. A lot of business advisors don't realise how much they can bend and twist these structures."

I don't know any social enterprise where I've spent a long time with, when you work out what they really want, where you haven't had to improvise or be imaginative with their legal structure, and that's built in to good social enterprises.

Governance

Ownership, Control and Power

I think anyone like me, who has managed a social enterprise, and been in the real thick of it, knows that it's actually all about power. It's all about power and managers realise that. Now it's up to them how they want to manage that, but there's no legal structure that I think I, as a manager, couldn't manipulate to suit the way that I work and manage, and I think most experienced managers know that, and so really legal structures, to some extent, reflect that.

Social Audit….

"I reckon the reason why it doesn't happen is because the people who are in power in that social enterprise are aware that what they're doing doesn't necessarily fit with the legal structure and if they start to review it, then that change in power will be exposed."

Workarounds - See xxxxx in xxxxl, social enterprise worker controlled company owned by the founders, board as a Social Audit Board registered as a company limited by guarantee, but with sole purpose of social audit and producing a social audit report each year. Enables ownership and control but delivers social value in funder friendly manner…

See also 'participant 12' on loopholes.

"what I do is I put on my manager's hat, and I'd say, 'When I was managing a CIC and it wasn't working, what would I do?' Well, it's dead easy what I would do. I would set up a separate organisation and gradually, I would move all of the trading and things like that into that, and then the CIC I would wind down. "

Asset lock

CIC's

"I don't think the asset lock works anyway. Any clever person could pull it apart"

Social Audit

"a good social audit, one of the things it does is that annually it reviews the legal structure and it reviews it in the light of people's experiences annually, and that's a very dynamic thing. That doesn't happen in social enterprises generally."

"Because it might well be that you want to change the constitution into reality."

Advice and support

Networks …

"One is the networking and the ability to set up a self-governing networks is really important, because then the discourse happens and you get a common view, because you will have people turning up and taking over hospitals and saying, 'We are a social enterprise."

"I think the big weakness in the UK is the fact that we've got a very fragmented movement and what we need are local and regional robust networks set up using social media, and that will provide a natural protection. We'll get the balance right that way, because these networks will automatically set that balance and make things accessible, but also give people the support they need as well, but at the moment, it's in a vacuum."

"I would tell people those networks do exist and geographical boundaries don't matter so much."

Informal, self-governing networks without constitution and formal meetings. (**See also Open Space approach**).

> "it's a vibrant network and I think it's much more alive than the Sheffield one, which is having formal meetings and a constitution, and then you're trying to create a structure which someone has to maintain, a secretary and things like that."

Bert Ola Bergstrand - Social Capital Forum

http://socialcapitalmarkets.net/speaker/bert-ola-bergstrand-community-of-bergsjon/

Social Innovation Seminar, Riga, 3-4, October 2013

http://socialinnovation.lv/en/bert-ola-bergstrand-social-innovation-swedish-example/

Bad advice - wrong legal structures.

> "xxxx and xxxx, who is director, they did a survey of social enterprises in the North East of England and one third of them had the wrong legal structure. It was clearly the wrong legal structure, and which did not fit their business models."

Importance of dependent, impartial support.

> "for the North East, they are fortunate that they have NESEP there, and NESEP, I think, understands that and there are the benefits from informal linking and empowering, but also it's important to have, which is something which is best paid for by others, not by the people there, really crucial and important advice. So NESEP put on a number of courses, not for social enterprises, but for advisors of social enterprises, and lawyers, because that's where things were going wrong."

Who owns structure knowledge ….

"I think, for me, it's about ownership and particularly the knowledge of structures and articles and who owns it, and of course, there will be professionals who want to own it, mystify it, make it inaccessible. The danger is that if you go completely down an open source route you are encouraging people to make disastrous decisions, 'Because I've heard that a CICis a good way to do it,' or whatever, 'And here's a free CIC article,' I guess, 'Get it free, I'll put that on.'"

BIG ISSUES

Vested Interests

"….vested interest and I think they are at work. I think that government, charities, the private sector, are all seeing social enterprise as a threat, and <u>one of the ways in which they can mitigate that threat is to impose their own models</u>." For example, <u>charities are very keen to have their type of legal structure with the board and the CEO and the beneficiaries disenfranchised</u>. That's the model that they want to impose and it's no coincidence that the chair of xxx is from xxxx Limited.

See also 'participant 13' on CIC's.

Funders

"One of the ways that the funders tie us up is that we did a rough estimate, but it's not far off, and that is that <u>social enterprises spent 13 weeks of the year entirely, 100% of their resources, 13 weeks dealing with funders, tenders and the monitoring that comes with it.</u> Thirteen weeks of the year have to be related to that, so it slows everything down, puts everything under their control, allows them to exercise external criteria and allows them to manoeuvre things. <u>So I think, in that respect, it means that social enterprises are in danger of losing their biggest asset, which is their grass roots' power."</u>

So a lot of the work is about making social enterprises investment-ready. <u>I think there are two problems with that: a) it's irrelevant, but again, it's all about the direction in which they want social enterprises to go. It's based on a scaling-up model which isn't there and social enterprises don't actually want to scale-up.</u> They actually quite enjoy the fact that enterprises are becoming smaller, they prefer that, and what <u>they do want to do is scale-up their impact</u> so that they can find like-minded people to do similar, they'd help them.

……. and actually social investment doesn't really exist. And what it does do, it takes the focus of social enterprises away from where a lot of money is, so in things like crowd funding, they're ignoring that, they're ignoring Community Shares, because they've been told, 'No, it's social investment and you've got to look at social investment. You've got to scale-up.'"

Self Help and SE

"the answer, of course, social enterprises have got, but they don't realise it yet, and it's deep in their tradition, and that is to say, <u>'Hang on, if there's a problem, what's been our response always when there's a problem? We find our own solution</u>, and our own solution is setting up our own banks, we've always got Triodos, setting up our own funds.' That's the way to respond to it"

Government Policy

"First, stick your nose out of it where it's not welcome! ((laughs)) Show me. I mean we've worked in 45 countries, and <u>show me the evidence that any development of social enterprise in any of those countries is related to government policy or government intervention. There isn't any.</u>"

Understanding of the sector by government at all levels

… the Cabinet Office and they were setting up the Social Enterprise Unit, they asked me, from my point of view, 'What did the social enterprise movement want from the Unit?' And I said, 'We don't want money from you because that will always have strings, and we don't want any guidance from you because we can guide ourselves. <u>What we wanted from you,' and I still think this is the only thing they could have done and should have done, is, 'I want you to turn around and look at your own government structures and make sure that every government department and every governing officer understands who we are and what we are, and, if necessary, use us to train or to raise awareness.</u>

Participant 13.

Background

Early involvement in the co-operative movement with xxxx ending up CEO. Left to formed a new employee owned business, interested in a new model "democratic business"…

http://library.uniteddiversity.coop/Decision_Making_and_Democracy/Democratic_Company.pdf

Wrote a masters dissertation on the impact of legal structures at University and the theme continued through to PhD research though primarily this concerned governance and values.

Became interested in multi stakeholder models, influenced by xxxx, xxxx and xxxx which led on to latest work on Fair Shares model.

Switch from practitioner to though leader.

Issues discussed

Definitions - see also social enterprise mark.

Social Enterprise Europe, International definition of SE.

http://www.socialenterpriseeurope.co.uk/what-is-social-enterprise/

http://www.socialenterprisemark.org.uk/what-the-social-enterprise-mark-means/

Ridley-Duff, R., & Southcombe, C. (2012). The Social Enterprise Mark: a critical review of its conceptual dimensions. Social Enterprise Journal, 8(3), 178-200.

"But there was a pivotal conversation at the end of 2012 where we retained our commitment to distributing dividends to shareholders if the shareholders want the dividends distributed. It was because we had an international conversation about the definition of social enterprise based on the work I've been doing with xxxxxxxx in summer schools and paper on the Social Enterprise Mark."

Social Enterprise London definitions watered down, larger voice of charity sector around the CIC. Definition as result of consultation and ground up evolution.

"I feel quite positive at the moment. I think there were rigidities created by the Social Enterprise Mark that the practice community have partially overcome by working with the community into a company regulator, and also overcome by

reverting back to like CLGs or CLSs; they just bypassed the rigidities of the CIC."

Drivers

Democratic and multi stakeholder, multi shareholder views.

Social mission: IT services to social purpose organisations.

Structure

FairShares Model; http://www.fairshares.coop/the-case-for-fairshares/

Loopholes

"I got a wake-up call about how people will override the rules when the Social Enterprise Mark company walked off with all of the assets of RISE, which was the network in the southwest. I think I do want to put this on record actually:

There was a regional network for social enterprise in the southwest called RISE and they were in partnership with Social Enterprise Coalition, at the time, Social Enterprise UK later, to create the Social Enterprise Mark. And clearly the people behind RISE were much more interested in developing the Social Enterprise Mark as a business than continuing to run the regional network. RISE had very considerable assets and were certainly solvent. Social Enterprise Mark company was most definitely insolvent. But rather than shut down the Social Enterprise Mark company and keep the assets in the regional network they shut down RISE and transferred the assets to the Social Enterprise Mark company. And they did that seemingly without anybody having the power to stop them and they organised a meeting to close down the company."

Governance and structures

Notion of selection based on business planning and doing business

"Yes, I subscribe to the view that you should think about your legal model but you shouldn't be too quick to jump to it. It should be decided to support… I think it's a combination of the values you hold and the business, the pragmatic side of creating a business."

Ownership and control, having a stake in the business:

"I would say part of that debate was that we did not feel like we had an investment in our own business. Even though we were a co-op and we controlled it and it was democratic, it was, it really was, once you'd left you'd gone; you got no real benefit. You certainly had a role in decision making but you didn't feel as though you had an investment."

Investment and use of profits - the Influence of Mondragon capital account

http://www.mondragon-corporation.com/eng/

http://ica-group.org/wp-content/uploads/2015/04/Internal-Capital-Accounts.pdf

Ownership, control and decision making.

"Having been an entrepreneur I became very conscious of the way that you can be frozen out if you engage with the private sector. I was encountering stories of entrepreneurs who when they involve investors suddenly the entrepreneur is frozen out of the enterprise they created."

Notion of "founders share"

"So, the founders share gave the founder – and it is literally the person who signs the organisation into existence – has a continual right to representation in the governing body."

"We then looked at: how could you structure the company so that the founders could exercise their power of veto but not of imposition? We came up with the idea that a special resolution didn't just require 75% to change something, as it does in UK law, you also needed the consent of the different stakeholders."

Notion of governance through consent rather than power.

Similarities in approach to **NewCo model** developed - xxxxx   and **Participant 11** also **Participant 12).** See also Stakeholder Model from **Geof Cox.**

Entrepreneur wanting control but also wanting to be controlled.

Asset Lock.

"So, you still have the notion of an asset lock, but you don't have it under board control; you have it under the stakeholders' control. So, some of it can be spent by the board; some of it can be spent by the users collectively; some of it can be spent by the workforce collectively – but they all have to invest it in the social objects of the organisation."

"To me the asset lock enforces philanthropy onto the people who operate under it. I'm in favour of an asset lock if the members want the assets to be locked. So, it's this boundary between philanthropy and mutuality that I find very, very interesting. What I fought to address in the legal models that make up the FairShare's model is that you should not accidentally transfer assets between the stakeholder groups unless it's a conscious transfer of assets."

Social Purpose

"The FairShare's model definitely does, so it has a commitment to triple bottom line, to developing cooperative social entrepreneurship, to observing equal opportunity norms and observing cooperative values and principles. So, those are like very standard objects, and then you add your very specific social objects on top of that."

Use of surplus.

"Under the company and the co-op you can extract. Under the association or partnership you can't. In traditional for-profit, non-profit language there are models which lean more towards the for-profit end and more towards the for-purpose end."

"So, members capital, cooperative capital: cooperative capital must go to other similar organisations or be returned to FairShare's association or named organisations in your constitution, a bit like the CIC. Members capital is returned to members in proportion to their capital holdings."

Democratic Business rules - explored at start-up stage of new business.

https://books.google.co.uk/books?id=BDbyzz_mRFEC&pg=PA72&lpg=PA72&dq=democratic+business+limited&source=bl&ots=ncNJwXBRNs&sig=JW6PZ3S7VUydxxoLDJorxj_Ltzk&hl=en&sa=X&ved=0ahUKEwidoqbd7YLSAhWoD8AKHQddAXkQ6AEIQDAH#v=onepage&q=democratic%20business%20limited&f=false

"Democratic Business Ltd's rules introduced something that was really appealing: it was a division between voting shares and investor shares – they had different names for them at different points – but the point was you could retain your one-person one-vote principle using holding a voting share, and you could have investor shares that reflected either the amount of money you'd put in or the amount of money you'd been party to creating in the business. So, as you shared out the proceeds you could represent those as investment shares."

Started a new business FirstContact Software based on these rules.

Evolution of structures

"Yes, I think that whenever you start to write documents people can begin to think you're sort of laying down the law. But in every conversation I've ever had about the FairShares model I've emphasised our willingness that the entrepreneurs experiment with what is available to them and evolve it, and we'll study what they do and try and work out what works where. So, it is rooted very much in an evolutionary mindset that we're putting something out there that people will… This comes from my long work with Cliff, with I think even Morgan,

but particularly Cliff and Geoff: any standard model you put out there is the start of a conversation and people will want to change it. And it's up to us to help them adapt it so it's fit for purpose. It's like virtually every field: you've got best practice or fit or best fit."

"So, user developed, user influenced, practice influenced, protecting the sort of natural selective process where the basic idea is it's protected in commons."

Structure critique

CIC issues.

"It's worth mentioning this: virtually everybody who was involved in the early formation of the FairShare's model and the FairShare's association was a critic of the CIC. So, we felt that the direction the CIC went was fundamentally flawed."

"I can remember going to the launch in London and Steven Stears, he was at ETC, he said, "The CIC isn't about democracy or it's not about…" And I've been a founder of Social Enterprise London, it bloody well was. When we pushed for the CIC legislation to be introduced and the parties who were arguing for a new legal form were certainly thinking of social economy norms at the point that they did that."

"Then by the time we got to legislation they were overruling both Social Enterprise Coalition and Co-ops UK, so they both argued for a statutory commitment to multi-stakeholder or stakeholder governance. And the entrepreneurs who were driving the writing of the legislation and the early model rules managed to get that out."

Response to the CIC

Yes, so all of the early backers to this were rooted in some critique of the CIC. The early critique was the loss; and so Co-ops UK responded initially to that by creating a culture CIC, so they restored the democratic elements that were lost from the CIC in its original creation by creation a setting of model rules. Morgan created its stakeholder model. I created what I call the surplus sharing model. Cliff Southcombe created what he called the social wealth model. So, we were all finding a legal response to what we saw as the shortcomings of the CIC.

Advice and support

Rigid support through Business Link.

"My one bugbear in the past – and it's kind of disappeared because the Business Link advice service has disappeared – but they were pretty rigid. I felt

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historically they were quite rigid about what they would and would not recognise as a social enterprise. And again they were influenced by that whole government thing and what the government wanted, and also I think what the voluntary sector wanted. So, they reduced the boundaries where I wouldn't have put them and xxxwouldn't have put them and xxxx wouldn't have put them."

Social Investment.

Social investment industry not fit for purpose.

"Yes, that's worth commenting on. I had to write a book chapter around social investment. <u>I think crowd funding, crowd lending, crowd investing is a wonderful idea whose time has come</u>. <u>I think the social investment industry is not fit for purpose, and the research evidence that I've seen at conferences tends to support that.</u> My own trawl through the literature for writing a book chapter showed the incredibly rapid growth of the crowd based models and the very slow take-up of the social investment models."

Crowd funding.

"I got interviewed by somebody who was researching I think for Big Society Capital or a coalition of them, and I said they ought to be doing social investment into the platforms that do the crowd stuff, so they can make money that way and actually they're giving people what they need and want."

Participant 12.

Background

Working in the co-operative movement, and then in support, CDA and then ran the NFWC legal department followed by 20 years as a freelance adviser, mostly legal matters and constitutions.

Issues discussed

Structure

Confusion about the options, the pro's and con's of each legal structure.

Complexity, around ten different legal structures and variants on a theme…

Simple structures are best at the start (CLG or CIC) and can always be amended or developed later on.

Complexity and the "ladder of regulation":

> "What I say to people is there's a ladder of regulation and you've got an unregulated company, like a company limited by guarantee, and a community interest company, which is a bit more regulated, and a charity, which is a lot more regulated again, and if you move up that ladder, you can never move down, and that makes quite a clear visual image."

Variety of structures and variants

> "Yeah, and in terms of that, what you could say, the system within which we design legal structure is absurd, there are nine or ten different options: we've got company limited by guarantee, CIC limited by guarantee, CIC limited by shares, a charitable company, CIO, Bencom , a cooperative society."

As an adviser, likes complexity as it provides scope to operate and create options for clients. But from a user perspective….

> "But from the consumer's point of view, it's absolutely baffling and a lot of people get very anxious about whether they're picking the right structure or not, and equally, a lot of people get anxious when they discover they've picked the wrong one!"

Clients tend to overthink the issues of structure and are better off starting simple and adding complexity later on….

Drivers for change of structure.

> "Another obvious ones are if the social enterprise is a registered charity then they might want a trading company because they want to get involved in risk,

risky trading activities that the charity can't do. That's another straightforward one."

Trading Charities, Charity Commission rules financial risk management,

"The primary reason for setting up a trading subsidiary is to avoid breaking the rules, as charities can do, but it also quarantines risk, so if they've got an idea for a semi-commercial venture that carries an element of risk which could impact on the parent charity, sometimes they create a subsidiary so it can go bust on its own."

Also the issue of VAT and avoiding making the whole charity in scope for VAT at 20% due to trading activity, hence creating a trading subsidiary.

Notion of Capital Partnerships--- alongside LLP's -

https://www.youtube.com/watch?v=I5mgnR5lagI

http://www.senscot.net/view_art.php?viewid=1106

Loopholes and work around's.

Funding and Funders.

"Which is basically you form a community interest company limited by guarantee with one voting member, which you can do, which is a social entrepreneur. They then recruit a Board of Directors, so when they go to funders, say, "Look, we've got four directors, they're unrelated," and, in fact, come the general meeting, there's only one person with a vote who can appoint directors, sack them, replace them. So I don't particularly like that structure."

Asset Lock

"The asset lock in the community interest company, so the asset lock, you're not allowed to dispose of money or assets at less than market value, and if the company is wound up, that can't be distributed amongst members and it has to go to another asset lock body. Nearly all the CICs that I deal with have got a handful of directors who are on the payroll, so if the business is going down the hill, they simply carry on paying themselves until the bank account is empty."

Governance.

Ownership is a key topic with new-start social enterprises. Who could own the enterprise, what voting rights, who might the members be?

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An unwillingness to share ownership is most common, this manifest around the pursuit of funding.

"an absolute classic is a sole social entrepreneur who's put something together, and I can think of a dozen examples instantly from just the last couple of years, they've worked hard, they're talented, they've got vision, they've put something together, and then they've gone for funding, and this is one of the big things, funders, they go for funding, and the funders say, "You're the only member of this company and we're not going to touch you. We want to see a minimum of three unrelated people in control." It's a criteria of a lot of funders. So the social entrepreneur comes back and he says, "Does that mean I've got to share ownership with some other people?" to which I say yes, and they say, "I don't want it.""

Structure change driven by the relationship of legal structure and governing documents to current situation and practice.

"Look, what's happened is that your practice has drifted apart from what your constitution says, so either change your practice to suit the constitution, or change the constitution to suit the practice. We can do either. What do you want?"

Joint ventures and mergers -

1. Lead body model

2. New entity model (possibly a SELLP)

3. The 'Big Merger' model

Funders looking for cost saving through a reduction in the scale of management overhead tend to drive these approaches.

"And it's sometimes imposed by funders. Thirty three charities in xxxx all with a contract with xxxx County Council, and this is going back a few years, and xxxxx County Council said, "Bugger that, we just want one contract. You go and sort yourselves out, but come back next year with one entity to sign the contract, because we're not doing 33 again.""

Government Policy

Simplification agenda perhaps;

" they ploughed in with community interest companies when we already had community benefit societies, and then we already have four forms of charity, unincorporated associations, simple trusts, a charitable company and an independent society, and then they introduced the CIO. They just keep adding and there's a wealth of them and they never take any away!"

Regulators

"The Charity Commission, you've got to be on your toes when you deal with the Charity Commission and they're switched on and they see through subterfuge and all sorts of things, but the CIC regulator, as long as you actually know what the rules are."

Advice and support

Some less informed advisers.

Bad advice…

"so I frequently have to amend bad advice, and it may be given with good intentions, but poor advice that people have been given."

"people are actually confused about the options and the pros and cons of each, so I do a lot of handholding at that stage and explaining in plain English what the options are."

"I do get people coming to me who have been advised to register as a charity and have realised that they've essentially given away their project and they didn't realise they were doing that."

"but there are a number of generalist special enterprise advisors who think they know more than they do and give dodgy advice. I've had people come to me who actually have illegal structures that have been recommended to them by people who have quite a standing in the sector."

Complexity, experience and understanding needed to give advice on structures.

"Yeah, but you've got to know the whole range pretty intimately and, frankly, unless you're a specialist, which I am, you're not going to. A general social enterprise advisor, there's no way you could have that depth of understanding. It's taken me 40 years!"

Understanding both the legal aspects and the social enterprise aspects….

"There are plenty of people out there who are passionate about social enterprise and understand the ethos and the values and all that, but don't know

the law. And you've got legal firms who know the law but they don't really get the social enterprise philosophy or whatever."

Participant 11.

Background

Founded xxxx, a small IT projects SE, later an SE adviser (Business Link, Local Authority, Universities etc.) A Fair Shares founder.

Issues discussed

Drivers

Social output.

Profit for the entrepreneur.

Social good coming from enterprise, primacy of this dimension….

"I'd already seen it very differently from a lot of people and I'd always seen that the social mission would occur as a consequence of successful trading in a market, there's the primacy of the enterprise over the social and I'm quite clear about that in what did with xxxx. So, in other words, the more successful we were as a business, the more we would deliver our social mission."

Definitions

"a business that was as efficient as a private business that actually had some good written into it".

Structure as badge of legitimacy:

"the biggest minus side was the lack of recognition, so the regular business support community would treat us a second-class citizen because we weren't really a proper business and some of the social enterprise community would treat us as a second-class citizen because we weren't a proper social enterprise."

"I'm saying, "If you carry on a sole trader, you're not really a social enterprise and there's nothing stopping you from calling yourself one, you can still access my time, you can still access university support. You'll probably still get a load of small grants from UNLTD and various places, but at some point, you'll need to think about it. If you're serious about being a social enterprise, let's call it what it is and let's adopt a legal structure that reflects and shows the rest of the world that you mean this."

Social Enterprise Mark:

"the Social Enterprise Mark came along and we were basically told, "You're not a social enterprise, you'll abide by the Mark," and I think that was quite a common experience actually, but suddenly asset locks were massively important and we didn't have one, so there was that lack of recognition."

Concerns of badge of legitimacy and market place brand in the eyes of customers.

"that's what worried me about the Social Enterprise Mark. It's the only time, since setting it up, going back to being an entrepreneur, that's the only time that I've felt worried for the future, was when we went, "Oh right, we'd better get this Mark thing," and they said, "No, you're not." And strategically, I'm thinking that's a nightmare for us now, because if we can't call ourselves a social enterprise, or we become unable to tender for things or not on databases, then it's the beginning of the end and we may as well forget working for charities and we may as well just carry on with the SME market."

Most of those advised, "definitely don't want to run a charity; they're a business. They're definitely a business"

Link to UNLTD and NEN spotlight paper on Socially Motivated Entrepreneurs and the notion of the BCorp.

Structure

Pre CIC, options came down to charity or CLG but didn't like either so looked to create a multi-stakeholder shared capital company, dubbed NEWCO.

No Asset Lock - see comment above re recognition…. 100% income from trading so "why would you need that"….

Trading is and a viable business model much more important that structures at the start-up phase…… **Legal structure as business distraction at this stage.**

CIC an easier way of adopting a social enterprise structure for early years of trading.

Notion of legal structure falling naturaslly out of the business planning process.

Usual conversation with start-up social entrepreneurs about CIC structures the conversation is almost always about CIC by shares are rarely by guarantee. This largely driven by ownership…

"Yeah, so they own 100% at the moment, so it's like, in essence, how much are you willing to give away to another party?"

The distinction between share and guaranteed CIC, with the share bit being driven by the entrepreneurial stance and the control being about how much of the business you want to seed, because it's evolving out of that bunch of variable dimension, it's feeding the social dimension and not the other way round.

Governance.

"NewCo model, and where there were different classes of shareholder. Myself as the entrepreneur was the Class A shareholder, there were other charities that were partners in the project who were Category B shareholders, and employees were Category C shareholders. It would essentially be run by me as the managing director but with the Board comprising of one representative of each, therefore I could be outvoted. And the dividend was split pro rata between all three backers."

Control linked to swift decision making was key to structure selection.

"So I could run it with the efficiency of a private company that I was after".

Entrepreneurial control was very important. "it was very , very key". The aim was maximum control within the confines of a Social Enterprise so maintaining a minority share but the maximum minority share possible.

Entrepreneur regards stakeholder structural involvement as supporting business discipline, knowing he could be voted out.

Notions of be a business and make money and then give it away. Keep control. The question is do you want to enshrine this in the fibre and make it a legally binding element of your business?

Funding, Investment and Profits

See above, quote re distribution to multiple stakeholders.

Growth and practice driven change to distribution model.

Relationship of structure (particularly asset locked structures) with grants, public funding and contracts….

Despite the above, accessed funding via KEY FUND, more flexible.

Advice and support

Poor, substandard legal work.

SE's giving advice;

"I got more and more interested in helping other social enterprises start up, as I think a lot of social entrepreneurs do, and started becoming a mentor for Business Link amongst other people, getting involved in other people's businesses."

University Social Enterprise adviser.

Legal structure advice, keep this for latwer and focus first on the business planning and the business model.

"I want to basically say, "Forget legal structure for now, let's work on this plan." Or, "Forget legal structure for now and let's just define what products and services." I might say things to them like, "What are your motivations? What do you want out of this in ten years' time?"

Usual forms….

"in a start-up it's usually between stay as a sole trader or form into a CIC. It's nearly always that."

Quality and availability of legal advice.

Concept of local legal flavour, models advisers have most experience with etc. Participant favours those who have no corporate agenda and are independent. See's legal firms as a sort of sausage factory…

Government Policy

Anti-interventionist stance sees government intervention as tinkering, eroding diversity and freedom of action.

Favours bottom up development of the sector.

Participant 10.

Background

Worked in Enterprise support for around 25 years almost all of this time in Social Enterprises. Chief Executive of xxxx for the past five years.

xxxx is a bottom up trade organisation.

Issues discussed

Drivers

Social purpose is supporting member social enterprises through representation and promotion.

Definitions

Socially motivate entrepreneurs seeking advice from xxxx but not necessarily looking to start a Social Enterprise by some definitions. "Trading for Social good".

See UNLTD spotlight paper - How mainstream enterprise support organisations are supporting Social Entrepreneurs.

See also the B-Corp concept: www.b-corporation.uk/b-corps-in-the-uk definitions and kite marking issues.

"When they say that something social is driving them they don't want to have an independent board made of a load of people that… and have no profit out of the business, personal profit out of the business. So, does the traditional definition of social enterprise still have a place? Particularly when nobody really ever understood what it meant anyway. And you then have this continual battle about whether a social enterprise is supposed to make any money."

See also xxxxxxx and Social Enterprise Mark.

www.socialenterprisemark.org.uk/

Structure

Company Limited by Guarantee with social mission in objects.

View that a simple CLG structure with strong objects around social mission and use of assets should be sufficient for most Social Enterprise other than when there is are significant public assets involved.

Governance.

Changed articles and name (xxxx to xxxx) and looked to open up membership to non-enterprise agencies who provided enterprise support. This driven by falling numbers of enterprise agencies and need for scale to maintain operation.
.

Linkage of operational practice and clarity of governance structures in this context, See also Charlie Cattell…

Board of 14, CEO, 3 co-opted (one year appointment), and 10 elected from membership (1/3 retirement by rotation).

Board understanding of mission (see also participant 6 on SE CEO's as directors and source of advice).

"I actually have a very good relationship with my board, and I think that's because they themselves are chief execs of social enterprises they understand the work we're doing, and because they're closely aligned to what they're doing on a local level that I'm trying to replicate on a national level they understand the job I'm trying to do."

Previous experience of private sector directors not understanding social context and mission.

"when I was working for the xxxx my board had a lot of the great and the good from West Yorkshire on it who ran commercial businesses and couldn't really apply their commercial sensitivities to the running of the social enterprise, if you see what I mean, so they couldn't understand why you would make certain decisions based upon social purpose when actually there was a financial imperative."

Impact of understanding on decision making.

"So, when I ran an enterprise agency that's what I found with my board: it was quite difficult sometimes to get my board of local accountants or people running local businesses to see, 'why are we taking on a contract where we hardly made any money?' for example. Why would you do that?"

Governance process supporting board understanding And relationship with CEO - Chair is a two year term proceeded by a two year term as Deputy Chair. A two year induction in effect.

Board - Chair and Deputy Chair as source of advice and support for CEO.

Vested interest dilemma's in terms of contracts and bidding. Balance between members and independents…but fears over balance of commercial viewpoint vs social mission.

Funding, Investment and Profits

Profits reinvested into services to support members.

Advice and support

xxxx though a mainstream enterprise support network, the members will support SE's.

See UNLTD spotlight paper - How mainstream enterprise support organisations are supporting Social Entrepreneurs.

Social entrepreneurs and and mainstream entrepreneurs share similar business support needs.

xxxx is a mainstream business support network and members don't all have dedicated staff with SE understanding. Referral to specialist SE support / legal advice.

Education - piloted workshops with unlimited and member advice agencies designed to help advisers understand Social Enterprises.

Non-interventionist government - plus austerity - arguments against intervention due to growth rates of enterprise.

"social enterprise will fall into the same difficulties, because the reality is social enterprises are harder to start: they take longer, the lead times are longer; they often have a volunteer element of running them; there's usually one very enthusiastic driven person who probably very often isn't a good man-manager, isn't a good fundraiser, isn't all the things you need."

Paradox of support: Public policy on business support and social exclusion…

Impact of support on survival rates.

Confusion: Advisers not understanding CIC's

Participant 9.

Background

Director in an NHS spin out under the "Right to Provide" framework now trading and delivering a variety of Health related services across the xxxx. Significant growth, 3 x the number of service users etc.

Issues discussed

Drivers

Social mission and leadership drive.

Freedom to innovate outside the NHS also a key driver.

Taking ownership of services.

Structural drivers for IPS; involvement and engagement of stakeholders alongside accountability for service delivery.

The Social Mission underpins the enterprise, innovation and trading activities that enable it within a legal and governance structure that supports both.

All trading projects link to Health in one way or another.

Trading for the flexible sustainability of the Social Mission.

SELLP as a driver for significant combined Social Impact….

Structure

A Community Benefit Society - form of IPS.

BenComm driven by a focus on membership and involvement.

Developing perhaps the first Health and Wellbeing Limited Liability Partnership. **CHECK THIS…**

SELLP as a model to scale up efficient Social Enterprises to compete for large commissioned contracts. Enabling the sector to compete with the large plc's who are active in the health commissioning sector.

LLP enables aggregation of resources and financial strength whilst sharing risk and protecting IP plus giving a diversity of delivery capacity and skills.

LLP provides a legal entity for contracting.

http://www.barristermagazine.com/barrister/index.php?id=281

Around 1,000 members who pay £ 1 investment, key challenge is active engagement in how and what services are run.

Accountability through structure;

"Now, if they don't like the way the management of Social adVentures are running these services here we could be voted out by the majority. That kind of accountability via the structure of the organisation does not exist in public services."

However, most people just aren't interested - power vs the exercise of power….

Also the engagement of staff stakeholders is seen as a key driver of service quality.

Relationship of governance to organisation circumstances and current practice - regular governance review.

"I would say review your governance; it isn't set in stone. You have to have a starting point. You may find that there are pros and cons with that that need to be changed; or the organisation grows; or it changes focus. So, governance has to come back to it."

Governance needs changing with changes to operational practice, especially moving from contracts to trading, more trading requires different board make-up, skills and outlook. Public sector checks and balances vs imperatives of doing business.

Good governance is about enabling good decisions.

Directors CV's little to do with how effective they are as board members. Understanding both social mission and context alongside good business skills/understanding. Motivation of some directors questioned in terms of commitment to the organisation… Directors from the public sector directors risk averse… Directors from the third sector and charities very risk averse.

"Where in reality if you're going to find anything new, if you're really going to innovate in services some of the things you try will fail. That is a fact. Your aim is never to fail, but if you are not actually testing the boundaries of it, if you get it right 100% of the time you are not doing anything new. So, that's just something people just have to live with and react to appropriately. And that's very difficult to get out of a board in my experience."

In balance, private sector directors tend to understand risk management and how to push projects forward but not necessarily the landscape, funding etc. and the balance of profit vs social impact.

Attitude is very important not always about skills or experience.

Difficult to get the right people and the right mix of skills and backgrounds

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Structure and governance that promotes enterprise and innovation in support of the social mission.

<div align="center">"No money, no mission".</div>

Originally Governance <u>not suitable for operational practice and size of organisation.</u> Restructured board 12 down to nine and focused upon removing barriers to growth and involvement in decision making - board and community.

LLP model being developed enables member SE's to maintain structure, identity and ownership.

Funding, Investment and Profits

Trading surplus allows flexible investment is services (less profitable or loss making services can be supported from surplus elsewhere). 50% trading and 50% contracts.

Assets are locked.

Some Social Investment but borrowing has been commercial as Social Investment rates are seen as very high.

Bank business support really helpful, practical and directly commercially useful.

Poor experience of social investment:

> "I would ask about the investment readiness of investors"…

Questioned whether Social Investment can handle large scalable projects as they had sought £ 4 million on the back of a strong business plan supported by Deliotte's and KPMG.

Borrowing to speed growth (17,5% own resources, 17,5% from xxxx as a deposit then 65% from xxxx)

Prudent reserves policy to assist in risk management.

Don't have to maintain shareholder dividend so can trade on lower margins….

LLP as an investable platform through equity shares as asset locked organisations can be members and distribute profits without risk to their own structure and asset lock.

Advice and support

Bank business advice really helpful and commercially valuable.

Social Investment advice less than useful.

Participant 8.

Background

Currently an assessor for xxxx providing advice and direct support to Social Enterprises entering the Big Potential Programme seeking Social Investment (Investment Readiness). Charity trustee and director.

Issues discussed

Complexity and Confusion.

Confusion over legal structure based on advice, (xxxx) thought they were a CIC and found out that they were actually a registered charity….

Complexity of Social Investment Market and the nature of contemporary Social Enterprise Funding; from grants and Investment to a range of contracts, grants, investment and raising your own finance pus other options such as community shares and other crowd funding.

Note: this complexity alongside structural and legal form complexity,,,,,,

Confusion and complexity of legal structure's, participant notes there being maybe 10 structures, it's all a bit confusing.

What should we be is the wrong question, as we need to look at what we are doing and where we want to get to…. Strong governance more important than structure for Social Investment.

Governance.

Governance and leadership is a big issue for Social Investment, strength of board & management team, skills capacity, and financial controls alongside a strong viable business plan. Understanding both of social mission and the realities of doing business, board skill mix and capacity. Accountants and business people who understand the business model, need for a range of expertise. Also business people understanding the social business context, operating margins etc. balanced with social mission.

Funding, Investment and Profits

Social Investment issues with boards, management team up and ready boards lacking in understanding resulting in blockages.

Social Investment isn't the cheapest. More money than demand.

Social impact bonds in the delivery of public services.

Some models preclude directors taking money out which and some don't so making this an important decision point on structure.

Advice and support

Social Investment market looking to match supply of capital with Social Enterprises so providing business support alongside this under the banner of investment readiness.

> "I think there was a sense that, 'well you put the money out there, job done, then people will start applying'. Then there was a realisation that actually if you're making a market or you're trying to increase, you might increase the supply of capital and investment, but actually organisations are not in a position to take advantage of that."

Poor legal advice, CIC actually a charity;

> "But he still thinks that that's what he was told they were signing up for. So, they'd got some advice from somebody who did it for them and got it wrong. You have to adapt from that. We could have got ourselves in a bit of trouble, but we haven't; we've got through that."

Need for Business advice;

> "People can identify need about what needs to happen or what provision; but it's turning that understanding to, 'what's the market? Who's going to pay for this?' And I still think there's quite a gap."

Participant 7.

Background

FD and later CEO, 16 years with the organisation.

Issues discussed

Drivers

Key driver was social mission.

Structures

A local Authority spin out from the old Local Authority run Careers Services.

Company Limited by Guarantee with social mission within its objects. No legal asset lock and a provision to distribute on winding up. Mention made of another local service that went down the shares route and was later sold. Another mentioned went down the mutual route.

No appetite from managers or members for a shares model given social mission as driver.

Looking to create a holding company driven largely by procurement issues **(See Teckal case law)** around local authority involvement in commissioning. TUPE a major consideration.

http://www.wardhadaway.com/knowledge/procurement-in-a-nutshell-teckal-and-hamburg-exemptions/

CEO reflects on the Guarantee vs Shares structures and considers if Shares may have been a better route though considers that this was never possible in the past and culturally doesn't really fit the organisation This is perhaps a reflection on doing social good, but getting no recognition from the user community or stakeholders….

Considered the charity structure in the past largely driven by rate relief but decided against this following a due diligence exercise, Noted that once done this could not be reversed nor can funds be taken out.

See also Charlie Cattell and the ladder of regulation / tree of complexity.

Governance.

Four members with appointment right for four directors each (16). Later dispensed with AGM and appointment of directors annually.

Some mention of potential BNP councillors involvement so previous CEO implemented a change to articles to nomination of directors rather than appointment by members directly.

Primary concern in terms of board make-up has been avoidance of local authority control. **See also LA spin out consideration (xxxxxxx)**

Funding and Profits

Have adopted a balanced reserves policy over time, tension between building reserves and delivering social mission. Profits on one area support less profitable services in another part of the business.

Never needed Social Investment.

CEO concerned by the potential impact of Social Impact Bonds in terms of service delivery funding. Seen as very unclear how this will work. **See also participant 2 and participant 8 on this aspect.**

http://www.socialfinance.org.uk/services/social-impact-bonds/

Advice and support

Local solicitors (xxxx) used to support the legal structure development.

No mention of Business advice being sought.

Participant 6.

Background

History in the charity sector with trading charities and giving advice as a SE and as a paid adviser through and SE network (xxxx).

Issues discussed

Definitions

Some mentions of complexity and lack of definition, "led me to investigate what social enterprise was and I'm still trying to find out…..". "As I understand it DTI has no definition of social enterprise". I think a reference to legal definition as Govt, definitions exist or perhaps practitioner lack of understanding,,,,,

Boards noted as sometime as being an issue to trading due to risk aversion, lack of business understanding, culture of grant support.

Importance of definitions to funders; So some people are saying well, "No, you can't access this fund because you're not a social enterprise by our definition." And others don't care.

Drivers

Charity trading to replace reduced levels of donations and / or funding from other sources (xxxx replaced lost grant funding through trading (donated furniture, shop sales) within one year and grew this aspect considerably). Trading seen as a route to sustainability.

Trading led to greater social impact through related activities such as furniture restoration training for unemployed young people as well as funding more core charitable activities.

Structures

Set up as a trading arm of the charity, CLG with social objects. CIC's not around at this time though mentioned as possibly an option if available.

Asset lock not an issue. Though legal structure required for lease agreements.

Complexity and confusion noted, CIC's and CIO's mentioned, so many different models… Good form safeguarding public money though highlighted issues of related governance as a challenge.

The combination of of legal structures is confusing and worrying when the board are confused by straightforward business issues.

If there was just one, "one size" fits all legal structure…. encompassing social mission and trade…. A simplified form,,,, so that funders, commissioners etc can understand what social and charitable businesses are….

Governance.

Directors and Trustees - appointment not for skills but for their passion for the social mission. Issues of board membership lacking the professional skills and experience to run a business. Speed and reluctance to make business decisions an big issue. Attitude to investment risk in order to setup a trading business. Realisation that in order to trade to continue social mission needs business decision making and risk management.

> "It can be really hard when you're working with people that think the best way to fund your charitable organisation is to have a coffee and cake morning at the local Church and not get a loan for £20,000 to set up a retail outlet that looks professional and will bring in money".

Need backing of a strong board. Need to recruit more board members with right skills or train the existing ones.

Recognition of the need for people who know both the social business context and the social mission as also issues with purely business skills. Classic barristers, accountants etc., don't always have an understanding of the context of social businesses.

> "….what you need is the people that have run social business. So you start recruiting CEOs of other social enterprise and charitable businesses with the same mind."

Also other CEO's as mentors and to help educate other board members;

> "I was at the YMCA and that's where I met him and he was kind of like a sounding board for me in the end because he was having the same issues with some of his Boards."

> "you know, I need – I need a strong management structure before we embark on dealing with the legal structure."

Ownership and control

> "…..a lot of people are put off by the idea that they can set up a social enterprise and then be thrown out of it by their Board. And I think that scares a

lot of potentially fantastic social entrepreneurs from doing that and setting up that structure in a way that would enable them to access funds."

LINK to participant 4 and similar issues…

Founders Syndrome…. founders created board of friends who protected them, eventually ran reserves down, lacking innovation.

Funding, profits and contracts

Some commentary on the state and operation of NHS commissioning and how problematic this is in terms of management and board capacity.

"You see one of the biggest things I've ever heard that pisses me right off is not-for-profit. We are for profit; profit is not a dirty word because the more profit we can make the more issues we can deal with. So I prefer profit for purpose and I think that's a much better definition of what social enterprise and charitable business is about."

Advice and support

Sought advice from local CVS though funding struggles and closure mentioned in relation to local CVS.

Eroded support for governance, business advice and infrastructure support all eroded last few years and post Brexit participant though that this would only get worse.

Keeping up with legislation, legal compliance, structural changes etc. a major challenge for smaller charities.

Participant 5.

Decision process for selection of legal structure

Chose CIC as it seemed to fit (Community purpose, accommodated shares, investment, didn't take any advice which was a mistake, seemed new and sexy as a structure)

"The CIC structure allowed us to still run it as an entrepreneurial type business whereas many of the other structures, charitable structures and what not you put on it really don't lend themselves to running it like a regular business."

CIC as largely a reassurance to public bodies and funder that we were a 'bona fide' social enterprise - **see also definitions and Social Enterprise Mark related issues.**

"my overall feeling about all of these structures is they over complicate things and really they are put in place because a few bad apples ruin the whole apple cart and so it's about not trusting anyone. So organisations all of a sudden have a little label that says, I can trust that; even though it could be the worst run organisation on the planet earth, if they've got a social enterprise structure...."

Drivers

Largely entrepreneurial with social purpose.

Tension between entrepreneurial behaviour and public trust.....brought out in frustration with the structure.

Governance

CIC Governance and board involvement – didn't work and diverted effort from doing business. Issues of understanding and vested interest. Community involvement in the board largely non-productive. Stakeholders vs business needs.

"I mean that in the best possible way is that here you've got people who were trying to engage with the community but because of the way the legal structures are we are being forced into relationship structures that are not natural and are very bureaucratic and create a lot of stress and anxiety for the entrepreneur."

A strong perception of grants in the sector when many plc's access these in cash and kind for a multiplicity of reasons.. those in the sector find it frustrating to have to justify their position to the end they appear to have to…

Notion of legal structure as a hindrance rather than a help in terms of stakeholder and community engagement as this forces relationship structures that aren't natural ones.

Stakeholder structures (CIC) suggested as being particularly contrived and bureaucratic.

Boards - Board needs to drive the business, doing business first then the social capital/impact will follow.
Community and stakeholder engagement issues.

> "We tried to set up Advisory Boards and bring various people onto the actual Board of Directors and I think pretty much without fail all of that activity has been – with the exception of one person that was on our Board, Roger, who was a Councillor, most people that have been engaged either in the Advisory Board or who have come on our Board earlier on really just were like big wet cloths on the business and were – diverted the business from sustainability essentially; trying to direct it in ways that was more like a personal fiefdom."

Interview subject suggests that a limited company by shares is the best structure alongside strong mem and arts due to flexibility.

Ownership and Control

Control of the business from the social entrepreneur's perspective is really important.

Funders and Funding.

Trust of funders and public bodies was a major issue. **Link to badge of legitimacy.....**

Risk as an issue as public bodies try to eradicate this and it simply isn't possible to run a business without risks.

Asset lock and investment issues.

> "That asset lock – that asset lock for CICs is the main reason you cannot draw investment into CICs. I mean I got investment but it was from quasi funding places, it wasn't like – and I got a loan because they were going to back the building but nobody was going to back the business because there was no – I couldn't even get the xxxx to invest and basically he told me straight out, the Chief Exec, he said, "You've got an asset lock, so I've got to bet on your business and there's no way I can do that. I mean I need to have something to back it up."

Use of profits

Profit distribution seen as a major issue (large entrepreneurial investment for 5% above base rate return) within CIC structure…. **See also need for advice in structure selection….**

> "I didn't really educate myself on exactly how the CIC works. I didn't – one of the big things I didn't realise was the restrictions on extracting profits. So – and they are limited by shareholders, and it's 5% above base per shareholder."

"the structure of who decides how much money the entrepreneurs get back from the project. Why should it only be 5%? I mean hell I've sweated blood in shit loads for this and I get 5%? I mean quite honestly it makes me want to say, fuck you, basically."

"It's like I had the CIC regulator in xxxx for six hours…….This is not an entrepreneurial style of thing because why wouldn't it be 50:50. Basically you have to be an entrepreneur and be a monk. It's like actually I'm going to give you 99% of everything I have and then it will go to the community; well that's really insane. I mean that's just totally insane. It's totally insane to me. Anyway that's what I feel about stakeholder stuff."

" the deal's not an equitable deal; particularly if you are looking at structures like CICs and stuff."

Structural loopholes and work around's

"But what people don't realise is there's lots of ways to do that. So I could sell SHINE tomorrow and the person who buys it doesn't have to do the same thing with it, they can do whatever they want. I think people, a lot of people confuse the lock as being in perpetuity for the actual asset. It's not; it's for the asset and then whatever the CIC realises that asset of. So if I have a building and I sell the building that that asset now is the proceeds from that sale, not the building anymore."

Participant 4.

Background.

Founded first social enterprise in 2003: , which was xxxx. Sits on the Board of xxxx, the xxxx initiated commission led by Lord Lowe, looking at governance across charity and social enterprise. Supported around 111 social enterprises of one sort or another.

Definitions and External perceptions

Funding

Early stage grant requirement vs Trading income
Start and growth funding
Conversion (CIC to charity)

Governance

Ownership and control

Advice process looking at this as a key issue.

"Control and ownership comes back time and time again and I would say in the main the sort of people we're working with are quite entrepreneurial, or have aspirations to be entrepreneurial. And particularly founders struggle a bit with charity governance."

"decision making, who do you want to take decisions? Do you want you? Do you want it to be a non-Executive Board? Do you want to involve users or beneficiaries, blah, blah, blah – and then we just work through what they see as the route that they want to take."

Income and profits

"We look at what income generation – so you are seeing it as a mixed model of grant and trading. Is your trading likely to be contracts with public sector or is it going to be sort of a B to B, B to C model? We look at what people want to do with the profits and I push people to extremes. So they all say, "Well it's not really an issue because we're not making any profits at the moment," and then you say, "But what if…?" We talk about tax, we talk about those implications, we look at who owns the asset if you like at the end of the day? So we look at asset locks in terms of that and so I just work through that process with them and from those answers will fall out the options for them in terms of what structure should be."

Structures and doing social good

"CAF Venturesome did a piece of research about some different models there, profit generator model; so like One Water sells commercially and Gift Aids all of its profits into their own foundation. So for some people they are actually better with a commercial organisation and then they set up a charity or a foundation – do you see what I mean, or something like that?"

"Because then what they're doing is maximising the profit, gift-aiding the profit so again there's bigger gain and essentially having – so traditionally people would have had a charity with a trading subsidiary….. What we're often saying to people, if you want to be really commercial and you don't actually want a Charity Board making the decisions, you have your trading entity, which you control, you and your co-directors or whatever and then you Gift Aid. So you have a relationship from that back to a charity of some sort and that's a stronger model for people's control than these others might be. So it's – again you just keep working through with people."

Governance

Risk

"CEOs are often very much more entrepreneurial and manage risk better than Boards do. Boards wobble at all sorts of reasons."

Boards, doing good vs doing business

Issues related to Stakeholder engagement in structures - baord memebers understanding the "social business" reality.

"……. £200K overdraft at the end of the day with that and then we were also doing outcome based funding; so you were essentially just keying your information into the LSC or JCP databases, no invoice as such generated – you just got a payment every periodically, usually monthly on that. And they put in an interim Finance Director who said, "You don't really know what you're doing." I said, "Well I think we know what we're doing, it just takes a little bit of time to produce management accounts." "Oh no, we want this." Put that in place and this was a Charity Finance Director who just didn't understand what we were doing, told the Board we were insolvent and the Board went off it, closed me out, brought in a specialist to help us – so this guy turned up. I got back in on the Monday and started to defend this – but anyway the bloke came in and said, "I've come to sort out your issues with the revenue." And I said, "So what are you going to do?" He said, "Well we'll help you reschedule your payments." I said, "Well we're up to date." "But you're in trouble." I said, "No, we're not. We're up to date." "Oh, okay, right, fine." So he went and then it was, I said to the Board, "So have you been talking to the bank?" "Oh no," so I went to see the bank with one of the Board members and the bank said, "Well what's the problem?" I said, "None." "Okay." We had £300,000 of reserves at that point, you know, but it was notionally…"

Structural issues

Legal structure as a journey – composites evolve due to available structures and circumstances. Not always a good or appropriate fit to the available models.

See also participant 14 on the later of structural evolution.

Conversion.

"Yeah, and it's some of that stuff that kind of lets you, you need to have a flexibility that just doesn't exist in the structures at the moment. Conversion is really difficult. So people who started as you should be able – I can't see why there's any reason why you shouldn't actually be able to convert a charity to a CIC, at least a CIC limited by guarantee, why can't you? You can't. You have to close one down and start again, transfer the assets, etc. But why can't you? Why can't you more normally have Unitary Boards? Why do you have to go from very full permission from the Charity Commission who really, really don't get this at all?"

Funders

"you see and big lottery are funny about CICs limited by shares, as are Community Foundations, they have particular views."

Dilemma for early stage start-ups needing a mix of grant and other funding.

Funding and structure traps

"So we're working with somebody who started off self-employed, then formed a CIC, then Comic Relief desperately wanted to fund them because they were doing such wonderful work, got to the point where they were nearly at signing and they said, "Oh by the way you are a Charity aren't you?" So they ended up founding a charity and they are working between Scotland and England – so they now have the two directors both self-employed, they've got two CICs, one registered in England and one in Scotland. One charity at the moment registered in Scotland but they need another one in England because lottery want to fund them and they need that structure – how stupid."

"Sometimes funder driven decisions – I mean the reason I set my first social enterprise up as a charity – I set it up as a company limited by guarantee because I wasn't interested in personal gain and the big funder came, Northern Rock Foundation came and said, "We want to give you three-quarters of a million pounds but we need to be a charity," so what would you do?

Advice and support structure used."

5. Decision making and Control
6. Income (grants, trading, investment and mix)
7. Use of profits (taxation, investor or entrepreneur return and asset lock)

Quality of Advice;

1. Local Authorities poor
2. CVS & CVA poor
3. Enterprise Advisers poor, often lack knowledge of social enterprises
4. A Few lawyers offering good advice
5. Some social enterprise support networks offering good advice
6. More adviser training needed

"my personal view is they are better to go to a lawyer to say, "I want to set up a CIC limited by shares and I want your advice," than going to them and saying, "What should I set up?" because we actually find the advice quite often quite poor."

"we unpick structures quite a lot; particularly – so we find Enterprise Agencies haven't a clue. This is fairly generic – there are one or two individuals who know what they are talking about but generally Enterprise Agencies don't understand the structures and sort of see the SBDA Voluntary Sector, advice organisations again don't understand the structures and very few lawyers do."

"But they were advised by the Local Authority to be a CIO and I think if they do what they really could do with this, a CIO is not the right structure for them now, already, and that's a year on. And you kind of think… …
They haven't got a clue have they?"

"Well you know and there's a sense for me that there's a clear need for more training for advisors."

Participant 3.

Background

Accountant in charity sector and charity trustee alongside providing advice to trustees and supporting boards in decision making.

Business advisor interested in the structure and governance if Social Enterprises.

Issues emerging

Structure change driven by the pursuit of funding or the engagement of stakeholders.

Neither of the two cases discussed changed structure due to complexity and understanding of the stakeholders. -- **complexity and understanding.**

Structure and Governance

Community Shares, Community Benefit Society (xxxx) Stakeholder engagement / management, volume of unsophisticated investors (100 at first AGM), education and risk management, level of community interest / engagement is key, governance issues related to this form of investment and governance with voting at one share one vote regardless of value of investment.

Board of twelve, self-selected based on community interest, strong chair driving the project.

CBS - benefit, not legally regulated, so not expensive to set up in terms of legal costs. However, complex in relation to rules, to register as a charity or not? Note of persuading the Charity Commissioners and the two forms of Charity (membership or foundation). Simple funding reporting contrasted to other forms of funders wanting large reports..

Board and decision making, attitude to risk (big financial commitments). Skills and experience of Directors and big boards.

Refection on structure.

Perhaps should have formed a CIC but this would have brought legal costs and regulation. CIC locked into earning money or donations,

Complexity as pick and mix from a Sweetie Jar

Noted that many projects start with getting the project off the ground and don't consider the issues and impact on legal structures five years hence.

LINK to the work of GEOF COX on structures made here.

Issues of legal structure related to funding body requirements (Charity or CIC) etc. and asset locks. Badge or asset lock for funders… (Notion of definition and form of SE as badge of legitimacy).

Drivers - xxxxx social enterprise

Community ownership, protecting the asset, and financial efficiency.

Funding related to Heritage Building

Beneficiary engagement -   tenants as shareholders

Community interest - financially and emotionally involved.

Asset Lock

CBS asset lock to protect the Heritage Building.

Funding & Grants

Heritage Lottery Funding to repair the building.

Architectural Heritage Fund loan on favourable terms

Community shares - withdrawals and re-investment, recycling money.

Complexity - understanding what funders want and the related legal issues such as VAT and TAX.

Other issues discussed

Venture creation - importance of networks and social capital

Participant 2.

Background

Chair of a Social Enterprise Network (xxxx) and a director of a LA spin out.

Advisors not choosing structures - importance of impartiality

Key issues in structure selection and advise:

> Decision making
> Control
> Ownership
> Income - Grants, Trade, Contracts
> Governance

Structure as an outcome of a deductive process - See also outcome of business planning process. Community HUBS...

For Charities: issues of traditional sources of funding drying up and seeking to trade for sustainability. Structure wise; developing trading arms... TAX implications.... Risk aversion..

Also issues of cultural and political nature as charity mind-sets are challenged by business and trading issues.... Also potential funder and funding history conflicts in this sense too....

LA spin outs - lack of LA officer understanding of structures and implications.... NHS ... "Right to request".... Lack of business acumen an understanding by service managers.... Health Service commissioning a jumbled mess.... Social values bill lacking traction.....

Implications for LA board membership and control... and implications from grant funders.

Existing SE's: some issues around the move from grants to trading as an issue of sustainability.

Funding implications and new sources such as - Crowd funding and Community Share Issues.

Business Support

Lack of Business support for new SE directly and funding for this is patchy.

Government focus on Investment Readiness links support to investment through debt finance - BIG POTENTIAL PROG.

Small organic growth gets no support.

Networks for self-help.

Advisor bias driving legal structure (based on knowledge and skills balance rather than maleficent motives).

Business support offer shaped by funding and funders.... Outcome related business support driving behaviour.... Policy bias.... General lack of support.

Funding

Social Impact bonds discussion.... shell companies for this formed as CLG for simplicity, though often wrapped up in complex governance.

Government policy - replacing public investment with private but tendering arrangements acting against this...

Again, investor led business support.

Political view:

Government not prepared to fund third sector but happy for it to deliver.... North South divide on issues... Devolution issues...Sector lack of belief in local or national government.

Growth of limited by shares tech SE's DOTFORGE... Legal structure for growth... though concerns over ethos and social impact aspects...

Changing structure to follow funding environment........ Conversion issues....

CIC as badge of SE office - legal structure as badge of legitimacy.... and operating issues such as rate relief.... Various types of CIC..

Ideal perhaps a Limited Liability partnership with a community interest test.

Issues of definition - social value.... triple bottom line.....

Participant 1.

Background

25 years of experience in a Social Enterprise

Origins in Government Initiative with the primary driver being social purpose

Funding via LA projects

Governance began with an Advisory Group (up to 12 members)

No Structure at this time but growing - LA spin out???

Driver - Advisory group (stakeholders) looking to protect the use of public funds as driver for legal structure

Drivers for structure choice :

> no shareholders

> profits for social purpose

> limited liability

Outcome: CLG with articles protecting use of assets and social purpose

Advisory group dissolved and focus on CLG board.

Other than CEO, board are unpaid non exec directors.

This structure stable for many years.

Future change in structure driven by the sustainability of delivering social good (non-traditional education for children excluded from school) by funder (DfE) - board to be retained and expanded (more governance)....

Board skills and make up more important with new structure

New structure prescribed with model articles...

Income via Trading with schools and winning contracts from public bodies....

A sense of moving to from Business to Funder and Business to Consumer.

No legal Asset Lock - protection is solely in the M&A or objects. Appropriate for last 20 years.... though assets limited in value.

Forced merger by funders in past raised issues of decision making and control.... demerged after a year... Issues over understanding of social good and balance of board....

Board as support to CEO, balance of skills and experience. Small nature (7 Directors - 2 members, 4 non-execs and 1 CEO) promotes fast decision making. Structure though to be a good one...

Charity structure considered but avoided due to perceived bureaucracy and restrictions on possible activities.

Took legal advice from local law firm.

Focus on Social Purpose....

Expect less control in new structure driven by funders.... but doing social good is the primary driver....