

**The Scottish Regional Treatment Centre (SRTC)
Pilot Project at Stracathro Hospital by Brechin,
Angus.**

**The first Independent Sector Treatment Centre
(ISTC) in Scotland - and perhaps the last.**

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GLOSSARY OF TERMS AND ABBREVIATIONS

BMA – British Medical Association.

HCHC – House of Commons Health Committee. A select committee of the Westminster Parliament.

Independent Healthcare Sector (or Independent Sector) – These are the phrases used by the Westminster Parliament, and the Scottish Executive, which mean the for-profit private healthcare companies operating within the clinical services of the NHS, under a contract where the costs are confidential and not available to the public.

Independent Healthcare Sector Company – A private healthcare company providing elective clinical procedures for the NHS under contract with a NHS commissioning body. The procedures are usually a mix of orthopaedic, gastroenterological, ear nose and throat, general surgery, plastic surgery or ophthalmological procedures.

ISD Scotland – Information Services Division Scotland. ISD Scotland is Scotland's national organization for health information and statistics.

ISTC – Independent Sector Treatment Centre. A centre run by an independent sector healthcare company that provides a predetermined range of elective clinical and, sometimes, diagnostic services to selected NHS patients, determined by a long-term contract with a commissioning NHS body. These services are paid for by the commissioning NHS body.

NHS – National Health Service

NHS ADTC – National Health Service Ambulatory Diagnostic and Treatment Centre. A centre run by the NHS that provides a range of diagnostic procedures and a range of elective day, and overnight stay, surgery, with a range of out-patient clinics. Stracathro Hospital was the first NHS ADTC in Scotland operating with this range of services.

NHS Commissioning Body – In Scotland, this means a Health Board. NHS Tayside Health Board was the commissioning body for the SRTC.

NHS TC – National Health Service Treatment Centre. The name used in England for a NHS-run centre for elective day surgery.

SHC – Scottish Health Council. The SHC is a part of NHS Quality Improvement Scotland and was set up in 2003 as a champion for patient and public involvement. The SHC scrutinizes local NHS Boards to ensure they are working with, and listening to, people in their community.

SRTC – Scottish Regional Treatment Centre. The name given by the Scottish Executive Health Department to the first Independent Sector Treatment Centre in Scotland at Stracathro Hospital, by Brechin, Angus.

SUMMARY

The Scottish Regional Treatment Centre (SRTC) at Stracathro Hospital is the first Independent Sector Treatment Centre (ISTC) in Scotland. Between the 15 and 16 November 2006, Tayside NHS Board signed the SRTC contract with Amicus Healthcare (Scotland) Ltd, a subsidiary of Netcare (UK), an independent sector healthcare company. The SRTC contract is for elective procedures for NHS patients from Tayside, Grampian and Fife. An unused ward at Stracathro Hospital was refurbished for this purpose. £15million, over three years, was provided by the Scottish Executive to fund the contract.

Stracathro Hospital was the first National Health Service Ambulatory Diagnostic and Treatment Centre (NHS ADTC) operating in Scotland. This opened in March 2002. Since January 2007 the excellent facilities at Stracathro Hospital are shared by the NHS ADTC and the SRTC. The NHS ADTC operates during the day from Monday to Friday, while the SRTC operates evenings and weekends.

The BMA in Scotland has openly expressed reservations about the SRTC project at Stracathro Hospital, but, up to now, there has been little public comment by other trades union in Scotland.

The whole development was characterised by a lack of public debate. In our opinion NHS Tayside (supported by the Scottish Executive) have not followed the spirit of Scottish Executive guidelines on public consultation, and we believe that our request for a public consultation, based on the NHS Reform (Scotland) Act 2004, should have been granted.

Prior to 15 December 2004, the date that funding for arrangements with the independent healthcare sector for new diagnostic and treatment facilities was announced by the Scottish Executive, neither ISTCs, nor the SRTC, were debated in the Scottish Parliament or at the Scottish Parliament Health Committee. The SRTC Pilot Project at Stracathro Hospital was announced on 26 May 2005 as part of a Scottish Executive Health Department news release on waiting times.

There was no mention of ISTCs in the NHS in Scotland by the Scottish Labour Party, or their coalition partners, in the manifestos for the 2003 Scottish Parliament election and, hence, they did not have a mandate from the electorate in Scotland to introduce private healthcare into the clinical services of the NHS in Scotland in the form of the three-year SRTC contract at Stracathro Hospital.

Prior to the contract being signed, Tayside NHS Board refused to provide the financial data in the SRTC contract on the grounds of commercial confidentiality. After the contract was signed, in November 2006, the contract was published on the NHS Tayside website, but without any financial data. In October 2007, a formal Freedom of Information request for the financial data was denied by NHS Tayside on the grounds that such disclosure would be likely to prejudice substantially Netcare Healthcare UK Ltd.'s commercial

interests. A review by NHS Tayside has confirmed that view, and the papers have been sent to the Scottish Information Commissioner for a decision. Without this financial data, the public and researchers have great difficulty in the assessment of value for money of this project. Currently, NHS Tayside is planning an internal first year review of the pilot project to assess its effectiveness.

In November 2007, we are assured that Nicola Sturgeon, Deputy Prime Minister and Cabinet Secretary for Health and Wellbeing in the Scottish Government, will organize a comprehensive evaluation of the SRTC project prior to the end of the three-year contract. It is the Secretary's view that this will need to examine value for money, the benefits to patients and whether these benefits could have been, or could possibly in the future be, realized in different ways.

In England, the ISTC programme, which has been funded by a total of about £5.4billion, is highly controversial, and many of the issues in England apply to the SRTC project in Scotland.

We hope this report will help to inform any future debates and discussions on ISTCs or the SRTC project.

INTRODUCTION

This report presents the results of investigations, undertaken during the period May 2006 to January 2008, to attempt to discover the facts in respect of the establishment of the Scottish Regional Treatment Centre (SRTC) Pilot Project at Stracathro Hospital, by Brechin, Angus. The SRTC is the first Independent Sector Treatment Centre (ISTC) in Scotland.

This report concentrates on the SRTC at Stracathro Hospital. The SRTC contract brought the for-profit private healthcare sector into the clinical services of the NHS in Scotland with a long-term ISTC contract for the first time. This raised some important issues, many of which have been raised previously by events in the NHS in England, and it is essential to understand the history of ISTCs in England in order to understand the issues surrounding the SRTC at Stracathro Hospital.

As reported by the House of Commons Health Committee (HCHC) in their report on ISTCs in England [1], the separation of emergency surgery from elective surgery has been supported by clinicians in the NHS since the early 1990s. The first NHS Treatment Centre (NHS TC), dedicated to elective surgical procedures, was opened in England in 1999. A further 15 similar centres were opened between 1999 and 2002. In April 2002, the Department of Health announced further NHS TCs in England, to bring the total up to 47.

In England, in December 2002, the Westminster Department of Health announced the ISTC programme, which was to procure additional elective surgical procedures (similar to those provided by the NHS TC programme) to be provided by the independent healthcare sector (Phase 1 schemes). These companies were to provide services for NHS patients in 29 Phase 1 schemes, at a cost, to the NHS in England, of £1.7billion. In March 2005, Phase 2 was announced for elective surgery and diagnostic services schemes at a cost of £3.7billion. Phase 2 is currently being rolled out, and originally 24 schemes were envisaged.

In Scotland, the Stracathro Hospital NHS Ambulatory Diagnostic and Treatment Centre (NHS ADTC) opened in March 2002 and the Leith Community Treatment Centre opened in June 2004. Two new NHS ADTCs in Glasgow, at Stobhill Hospital and the Victoria Infirmary, are due to open in 2009.

In Scotland, on 15 December 2004, the Scottish Executive published "*Fair To All, Personal to Each: The Next Steps For NHS Scotland*".[2] Within this document was a commitment to fund the independent healthcare providers at a cost of £45million over three years. This included a commitment to fund arrangements with the independent healthcare sector for new diagnostic and treatment centres with long-term contracts (i.e. ISTCs). This ISTC-type of contract was completely new in Scotland.

The SRTC Pilot Project at Stracathro Hospital was announced as a press release on 26 May 2005 and £15million was provided for the three-year

contract. The SRTC opened in January 2007 and was fully operational in August 2007.

The SRTC covers the regions of Tayside, Grampian and Fife NHS Boards, but the bidding process and contract negotiations were carried out by NHS Tayside. There was a representative of the Scottish Executive Health Department on two of the three project management teams.

As in England, only independent sector healthcare companies could bid for the development money available (£15million over three years) for the SRTC pilot project, so there was no competition between the NHS and the private healthcare sector. Only one tender was received and the preferred bidder was Amicus Healthcare (Scotland) Ltd., a subsidiary of Netcare (UK). Netcare (UK) owns BMI Healthcare, which runs private hospitals in Aberdeen and Dundee.

This paper records our investigations and thoughts on the development of the first ISTC in Scotland, in the form of the SRTC pilot project at Stracathro Hospital.

Following some background information on Stracathro Hospital and the NHS TC and ISTC programmes in England, a timetable of the events in the development of the SRTC at Stracathro Hospital is given, followed by discussion of some issues under the following headings:-

Openness

Commercial Confidentiality and Value for Money

Public Consultation and Commercial Confidentiality

The Public Representative

The Scottish Health Council

Training of Junior Doctors

The Trades Union

A Pilot Project?

A Political Project?

The Effect of the SRTC on the NHS ADTC

Performance Indicators and ISD Data

Finally, a brief description is given of how the remaining £30million was allocated to be spent on private healthcare projects in Scotland over three years, beginning in 2004/5. We give some details for NHS Tayside, but these various short-term contracts are not discussed.

BACKGROUND

[1] STRACATHRO HOSPITAL.

Stracathro Hospital by Brechin, Angus was built in 1939 as one of seven Emergency Medical Services (EMS) Hospitals at the start of the Second World War. It had 1,000 beds and the first patients were soldiers and airmen who were injured in an air raid on Montrose Air Station on 26 October 1940. It became a NHS hospital in 1948 and evolved into the District General Hospital for the County of Angus. It had a bed complement of about 350 in the 1990s. The hospital had a reputation for excellence in both medical and nursing care, especially in the field of orthopaedic surgery, where there was a strong link to Grampian orthopaedic services. There was also an excellent orthotics department. In addition to treating patients from Tayside, patients from the North-East of Scotland and the Orkney and Shetland Isles travelled to the hospital for treatment.

Following the Acute Service Review and mergers of Trusts within NHS Tayside, Stracathro Hospital became the first NHS ADTC in Scotland in March 2002.

[2] NHS TREATMENT CENTRES (NHS TCs) AND INDEPENDENT SECTOR TREATMENT CENTRES (ISTCs) IN ENGLAND - A BRIEF SUMMARY.

The first NHS TC in England opened in 1999. In April 2002, the Department of Health announced a programme of NHS TCs, to bring the total up to 47, to create additional elective surgery capacity and to relieve pressure on the acute sector. The last of these became operational in April 2006.

Only eight months later, in December 2002, the Department of Health decided to commission a number of ISTCs to treat patients for relatively simple high-volume surgical procedures, similar to the procedures carried out by NHS TCs. The cost to the NHS of this Phase 1 development was £1.7billion. The first ISTC began in October 2003, and by October 2006 there were 24 ISTCs operating in England.

In March 2005, the Department of Health announced that it was launching a second phase of procurement for additional elective surgery and diagnostic capacity from the independent healthcare sector. This was contentious for a number of reasons; for example several professional groups had expressed concern about the quality of care provided in the ISTCs and there were doubts whether they provided value for money [1]. This Phase 2 development will cost £3.7billion and is currently being rolled out. Originally 24 schemes were envisaged.

In January 2006, the House of Commons Health Committee (HCHC) began an inquiry into Independent Sector Treatment Centres (ISTCs). Their report was published in three volumes:

| Volume | Content | Date Published |
|--------|-------------------------------------|----------------|
| 3 | Oral and Written Evidence | 25 July 2006 |
| 2 | Written Evidence | 09 March 2006 |
| 1 | Report together with formal minutes | 25 July 2006 |

The report can be viewed on the HCHC reports website [1]. Briefly, the report concluded that:

- ISTCs had not made a major direct contribution to increasing capacity.
- There was no hard evidence to prove that the standards in ISTCs differed from those available within the NHS.
- Good practice and innovation was found in NHS TCs as well as ISTCs. ISTCs were not necessarily more efficient than NHS TCs.
- There were failings in the quality of data collection by both the NHS and the independent healthcare sector providers.
- Waiting lists had declined since the introduction of ISTCs, but it was unclear how far this happened because the NHS had changed in response to ISTCs or because of additional NHS spending and the intense focus placed on Waiting List Targets.
- There were good reasons for thinking that ISTCs could have significant effects on the finances of NHS hospitals. The Department of Health had carried out an analysis of the possible effects of the ISTC programme on NHS facilities, but refused to disclose the findings to the HCHC.
- The HCHC found it difficult to make an assessment of whether the ISTC programme represented value for money because the Department of Health would not provide the HCHC with detailed figures on the grounds of commercial confidentiality.
- There were concerns that the ISTC programme was poorly integrated into the NHS and that they were not providing training for junior doctors.

The Government's response to the HCHC Report on ISTCs was presented to the Westminster Parliament by the Secretary of State for Health in October 2006. It also can be viewed on the HCHC reports website [1].

In their response, the Government pointed out that the intention to use the private healthcare sector was first set out in "*The NHS Plan*", published in July 2002. The Government claimed the private sector was a vital component of the Government's wider programme of health investment and reform. It was pointed out that in Phase 2 developments the training of junior medical staff was to be included and there was a response to other issues raised by the HCHC report. The Government pointed out that the Healthcare Commission should report on ISTCs by March 2007.

In July 2007 the Healthcare Commission published the report on *Independent Sector Treatment Centres – A review of the quality of care* [3]. At the time of the review there were 24 Phase 1 ISTCs in operation. The review provided some reassurance on the quality of care provided by ISTCs in England. Unfortunately the information regarding the care provided by ISTCs (i.e. key performance indicators) is not generally compatible with that collected by the NHS and straightforward comparisons of the quality of care between ISTCs and NHS hospitals have not been possible. The report says:-

“high quality data are essential for the monitoring of patients’ access to care, their experiences during care, and the outcomes. A number of groups need this information:

- *commissioners of services*
- *providers of services*
- *clinical professional organizations*
- *patients*
- *regulators*
- *the Department of Health*
- *Government, Parliament and the public*
- *Researchers and other users of data on healthcare*

However, the systems and processes needed to capture, analyse and disseminate data have not kept pace with the rapid establishment of ISTCs.”

The principles outlined above regarding healthcare data are to be welcomed and we hope the Scottish Executive Health Department will endorse these principles.

The report concentrates on quality of care, but it does note that in Phase1 the ISTC contracts were “Take or Pay”, meaning that the independent healthcare provider gets paid whether or not the commissioner (usually a Primary Care Trust) refers patients.

TIMETABLE OF EVENTS

A timetable of events is important in helping to understand the issues involved in the genesis of the SRTC. However, more information is given, as necessary, in the Issues and Discussion section.

February 2003: *Partnership for Care. Scotland's Health White Paper*.^[4] This paper outlined the Scottish Executive's healthcare policy, and does not mention the independent sector or private healthcare companies. It does state "*In Lothian, Glasgow and Tayside we have taken the first steps for new diagnostic and treatment centres at a local level. These will speed up the patient's journey, bring down waiting times and deliver better healthcare. We are determined to see these facilities develop right across Scotland and NHS Boards will make their development a priority.*" This can only refer to NHS ADTCs.

May 2003: *On Your Side*, the 2003 manifesto of the Scottish Labour Party was published. It was stated that the NHS in Scotland could purchase operations from the private sector for "*heart patients and inpatients*". No mention was made in the document of introducing the independent healthcare sector, with long-term contracts, into the provision of clinical services within the NHS in Scotland, in the form of ISTCs. The reforms contained in the manifesto were a commitment to abolish NHS Trusts and to establish Community Health Partnerships. The document advised that there was to be consultation on the matter of direct elections to all NHS Boards in Scotland.

There was no mention of introducing the independent healthcare sector into the provision of clinical services in the NHS in Scotland in the Scottish Liberal Democrat manifesto for the 2003 election.

The Scottish Labour and the Scottish Liberal Democrat parties formed the Scottish Executive coalition after the 2003 election.

15 December 2004: *Fair To All, Personal To Each: The Next Steps For NHS Scotland* ^[2] was published by the Scottish Executive. This document contains the first published reference, by the Scottish Executive, to the independent healthcare sector or private healthcare companies providing clinical services within the NHS in Scotland in the form of new diagnostic and treatment centres run by the independent healthcare sector, i.e. ISTCs.

The document advises of the Scottish Executive's plans for increasing the number of NHS ADTCs, citing those already established in Leith and at Stracathro, and two new NHS ADTCs planned for Glasgow. The next paragraph stated plans for "*funding arrangements with the independent healthcare sector for new diagnostic and treatment centres, catering for NHS patients and offering rapid diagnosis and care*". £45 million would be available over three years for contracts with the independent healthcare sector "*to enable NHS patients to receive their operations more quickly*", with the target being orthopaedic surgery.

The document was debated in the Scottish Parliament on the day of its publication. The motion of the Minister of Health and Community Care was agreed by 67 votes to 55 with one abstention. The Scottish Labour and Scottish Liberal Democrat parties voted for the motion, while the Scottish National, Scottish Conservative, Scottish Socialist, Scottish Senior Citizens Unity and Scottish Green parties voted against. Of the Independents one voted for, one voted against and one abstained. The motion was:

“That the Parliament notes that continuing action is needed to turn around the poor health of many people in Scotland; supports the emphasis that the Scottish Executive has placed, across portfolios, on health promotion; agrees that the Executive is right in tackling the three big killers of coronary heart disease, cancer and stroke and recognises the progress made to date in reducing mortality rates from these diseases; believes in putting patients first so that they are at the heart of NHS service developments and priorities, and supports the Executive’s determination to target additional investment and increase capacity so that the next steps are focussed on reducing waiting for outpatient appointments and hospital admissions, on speeding diagnostic tests and on extending patient choice.”

The published document and the agreed motion were the only justifications the Scottish Executive had for the introduction of ISTCs into the NHS in Scotland. However, the wording of the agreed motion could apply equally well to the development of NHS ADTCs as to the development of ISTCs such as the SRTC Pilot Project at Stracathro Hospital.

At the beginning of the debate Tricia Marwick, MSP in raising a point of order said, *“On a point of order, Presiding Officer. An hour ago, the Scottish National Party group leader was handed a document entitled, “Fair To All, Personal To Each: The Next Steps For NHS Scotland.” On enquiring at the Scottish Parliament Information Centre I was informed that the document is embargoed until after the Minister sits down at the end of his speech in the debate that follows. The document is therefore not available to members or to inform the debate.”*

The Minister of Health and Community Care, Andy Kerr MSP said, *“I understand that the document is available now in the Scottish Parliament Information Centre and not only when I sit down. My understanding of the situation is that I was going further than has been the practice previously because there is no absolute obligation on the Executive to issue any documents. However, I issued copies of the document to the leaders of the parties over an hour ago.”*

It is true that the Scottish Parliament’s Standing Orders do not govern the timescale for the publication of documents relevant to the debate, but to give a document to Party Leaders about one hour before the debate is not in the spirit of informed debate. During the debate, Carolyn Leckie MSP said the fact that the document was not made available to all MSPs before the debate was *“an insult to the Parliament and democracy”*.

Early 2005: NHS Tayside commenced work on the development of the proposal to utilise an unused ward and out-of-hours theatre capacity at Stracathro Hospital.

May 2005: *Scotland Forward, Not Back*, the 2005 manifesto of the Scottish Labour Party was published. It was stated that “*Expansion in NHS capacity will come from both within the National Health Service and the independent sector, where specialist services are available to the NHS at NHS prices. In the past year alone we have commissioned the independent sector to provide over 3000 operations through the NHS for patients in Scotland. And in the coming year we will greatly expand this provision to reduce waiting times and bring more quality healthcare through the NHS to patients*”. It was also stated that “*By increasing the capacity of the NHS, building new local healthcare centres, using the specialist provision of the Golden Jubilee National Hospital and contracting the private sector to provide diagnostic services and treatment facilities we will make sure that patients in every part of Scotland can get the care they need, when they need it and as close to their home as possible*”.

Clearly these statements were about the future of the NHS in Scotland, although the election was for the Westminster parliament. The Scottish Liberal Democrat manifesto 2005 did not mention the independent healthcare sector.

25 May 2005: *Building A Health Service Fit For The Future* [5], a report by Professor David Kerr on the future of the NHS in Scotland was published. In Section 4, entitled “*How can we get quicker treatment?*”, the report again identifies the need for the separation of elective care from emergency care through the development of NHS ADTCs. The report also identified the need to extend the working day for both diagnosis and treatment to ensure fuller utilisation of resources and to attain a shift in the availability of diagnostic investigations, particularly ultrasound, CT and MRI scanning, to the primary care sector. It is stated within the report that, “*If this action does not sufficiently meet the supply side pressure, NHS Scotland should continue to explore options for targeted partnerships with private sector providers, including those from overseas, who have the potential to bring in complete surgical teams for contracted periods to clear waiting time backlogs.*”

Thus the report suggested the option of targeted contracts with complete private medicine teams operating in the NHS in Scotland. However, these should only be considered after the planned developments (of the ADTC programme, the extension of the working day and the opening up of the diagnostic scanning services to the primary care sector) fail to accommodate adequately the supply side pressures affecting the NHS in Scotland.

26 May 2005: The SRTC Pilot Project at Stracathro Hospital was announced as part of a Scottish Executive Health Department (SEHD) Press Release on Waiting Times by Andy Kerr, MSP Minister of Health and Community Care.[6]

26 May 2005: Press Release from John Swinney, MSP the Constituency Member for North Tayside, which welcomed the expansion of capacity at Stracathro Hospital but regretted that this expansion was being undertaken in conjunction with the independent healthcare sector.

27 May 2005: The Dundee Courier reported the NHS Tayside Board meeting of 26 May where details of the £15million contract for the independent sector was announced. Four Board members chose to disassociate themselves from a decision to accept the money from the Scottish Executive, including Dr Drew Walker, NHS Tayside’s Public Health Director, who said he had gone through the paper before the Board and substituted “NHS” every time “private sector” appeared and it made “just as much sense”. [7]

20 June 2005: Andy Kerr MSP, Minister of Health and Community Care, in answer to a question from John Swinney MSP on what were the reasons for the Scottish Executive’s decision to expand healthcare facilities at Stracathro NHS ADTC through the private sector and not the NHS, gave two main reasons:-

1. *The first is due to the lack of appropriate staffing resource within the NHS in Scotland. It is expected that the independent healthcare sector will be able to provide the additional requirements that NHS Scotland is unable to deliver quickly.*
2. *The second reason is to provide the opportunity to test the market in terms of innovative solutions which may be available through the independent sector which are not currently available in the NHS.*

The first reason is an assumption which, in the light of the current job crisis in medical staffing, now looks as if it is not justified, especially as this is a relatively small project in new medical staffing terms since the existing NHS Tayside consultants are employed, part-time, to staff the SRTC. One consultant anaesthetist and one consultant orthopaedic surgeon have been brought in by Netcare (UK), as well as a Resident Medical Officer rota.

The second reason is a direct statement to test the independent healthcare market. This was unnecessary since the state of the market was known from the experience in England. It is difficult to know what “innovative solutions” are available to the independent sector that are not available to the NHS.

October 2005 to April 2006: Scottish Regional Treatment Centre (SRTC) Pilot Project at Stracathro Hospital - the Bidding Process.

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|---------------|--|
| October 2005 | Advertisement placed by NHS Tayside |
| November 2005 | Pre-qualification questionnaire issued to respondents to advertisement |
| December 2005 | Short-list agreed |
| January 2006 | Intention to Negotiate documents issued to those short-listed |
| March 2006 | Return date for Tenders |
| April 2006 | Preferred bidder selected by NHS Tayside Board. |

November 2005: *Delivering For Health* [8] was published by the Scottish Executive. This document seemed to pull together the previous health strategy documents (*Fair to all, Personal to Each: Next Steps For NHS Scotland*, December 2004 and *Building A Health Service Fit For The Future*, May 2005), with an emphasis on the 2004 document regarding the independent healthcare sector. It contained a further commitment to work with the independent healthcare sector in the section on shorter waiting times. However, there was a very welcome upbeat assessment of the Stracathro Diagnostics and Treatment Centre, which we take to mean the Stracathro NHS ADTC facility .

It gave a series of Key Actions and gives Timetables for Action on: Shifting the Balance of Care; Diagnostics; eHealth; Unscheduled Care; Planned Care; Rural Health Care; Mental Health Services; Child and Maternal Health; Tertiary Paediatric Care; Neurosurgery and Neuroscience.

29 April 2006: Meeting of NHS Tayside Board. Item 13 on the Agenda was Scottish Regional Treatment Centre (SRTC) Pilot Project - Full Business Case. This was taken behind closed doors (reserved business) in accordance with the Freedom of Information (Scotland) Act 2002 exemption 33(1).

It was the week before this meeting that we first became aware of the possibility of private healthcare companies operating at Stracathro Hospital. We did not attend the NHS Tayside Board meeting because the agenda made it clear that the item on Stracathro Hospital was reserved business.

13 October 2006: The authors of this report wrote to Peter Bates, Chairman of Tayside NHS Board, asking for a public consultation, quoting relevant clauses of the NHS Reform (Scotland) Act 2004.

1 November 2006: Councillor Richard Speirs received a telephone call, informing him that NHS Tayside will sign the contract the next day. He prepares an alternative motion, with slightly different wording, to his motion on consultation on the SRTC project to be discussed by the Angus Council the next day.

2 November 2006: The authors of this report received a letter, dated 1 November 2006, from the Chairman of Tayside NHS Board informing us that the Board is not required to consult on this project.

2 November 2006: Press Release from NHS Tayside announced that the contract between NHS Tayside and Netcare (Scotland) in respect of the provision of clinical services within the Scottish Regional Treatment Centre (SRTC) at Stracathro Hospital would be signed at Stracathro Hospital that day.

2 November 2006: Meeting of Angus Council. On hearing that the Press Release confirmed the information given previously, NHS Tayside Councillor Richard Speirs submitted his alternative motion.

The original motion was inviting “*the Chairman and/or Chief Operating Officer of NHS Tayside to consult with Angus Council and the community at large on the proposal to establish a Scottish Regional Treatment Centre (SRTC) Pilot Project at Stracathro Hospital.*”

The alternative motion was inviting “*the Chairman and/or Chief Operating Officer of NHS Tayside to consult with Angus Council and the community at large about the Scottish Regional Treatment Centre (SRTC) Pilot Project at Stracathro Hospital.*”

The alternative motion was passed by Angus Council.

15/16 November 2006: The contract between NHS Tayside and Amicus Healthcare (Scotland) in respect of the provision of clinical services within the Scottish Regional Treatment Centre (SRTC) at Stracathro Hospital was signed in Edinburgh and London over these two days. [11] Obviously, the contract was not signed on 2 November 2006.

In reply to a letter asking if any light could be shed on the fact that Angus Council was convinced that the SRTC contract was signed at lunchtime on 2 November, Gerry Marr, Chief Operating Officer, NHS Tayside replied, “*It is not for me to speculate on the knowledge or motivation of Angus Council but, such was the local interest in the Centre it would be surprising if councillors were not aware that I met with Mr Mark Adams on 2 November 2006, at Stracathro and that the key provisions of the Services Agreement were agreed on that day. The delay in completion until 15 November 2006 reflected the time to complete a number of supporting schedules including insurance arrangements (as Netcare had recently reviewed its insurance brokerage arrangements).*”

14 December 2006: Meeting of Angus Council. Peter Bates, Chairman, and Gerry Marr, Chief Operating Officer, NHS Tayside met with Angus Council. Gerry Marr gave a short talk summarising the Scottish Regional Treatment Centre (SRTC) Pilot Project at Stracathro Hospital and the commissioning process by which it came about. He suggested that value for money had been assured in the contract negotiations. He advised that support services would be provided by NHS Tayside and that the project was fully supported by clinical and other staff. He stated that ‘risks’ (i.e. medical negligence) were pooled by Health Boards and patients would be covered by that scheme. He advised that training for junior doctors was not to be provided within the SRTC Pilot Project at Stracathro Hospital. He advised that the SRTC at Stracathro Hospital would be audited at 10 months and 2 years, but it was not clear if this was an internal or external audit.

14 December 2006: The contract, without any financial details, was published by NHS Tayside and is available on the NHS Tayside website [9]. This publication of the contract conforms with the NHS Health Department Letter (HDL) (2005) 19, Freedom of Information (Scotland) Act 2002: Publication of PPP Contracts and Capital Business Cases [10].

6 January 2007: The Scottish Regional Treatment Centre (SRTC) at Stracathro Hospital opened, but was not fully operational.

25 February 2007: Jack McConnell MSP, First Minister, visited Stracathro Hospital to officially open the Scottish Regional Treatment Centre. Jack McConnell said: *“Netcare, you are very welcome in Scotland. We believe in partnership. I think the way you have conducted yourself says you are willing to work in partnership with the NHS. I think we have got a real example here others will want to follow elsewhere in Scotland and perhaps beyond that too.”* He was also quoted as saying: *“Those who say that by investing in the independent sector we are taking investment from the NHS are wrong. This is about securing the benefits of the independent sector for NHS patients. This is not about privatising the NHS.”* [12].

Jack McConnell MSP was also quoted as saying that *“by using the independent sector to treat NHS patients we have been able to reduce health waiting times”*, [13] but, for Scotland, this judgement was a little premature since the SRTC was not fully operational at that time and the total investment in the independent sector set out in Fair to All, Personal To Each: The Next Steps For NHS Scotland (£15million a year for three years) in Scotland was small in comparison to the total NHS budget in Scotland (about £10billion per year). The investment in the SRTC was £5million a year for three years.

May 2007: The manifesto of the Scottish National Party stated: *“By investing in more fast-track diagnostic and treatment centres within the NHS, by giving every patient a legally binding waiting time guarantee appropriate for their needs, and by providing the right incentives for hospitals to do more, we can drive down waiting times for everyone, not just those lucky enough to have a waiting time guarantee – something now denied to over one third of patients waiting for treatment.”*

Following the elections for the Scottish Parliament, the Scottish National Party formed a minority administration.

21 June 2007: At the NHS Confederation annual conference in London, Nicola Sturgeon, Secretary for Health and Wellbeing in the Scottish Executive, said she opposed the use of public money to help the private sector “compete” with the NHS. She said that market forces would not lead to better healthcare, and the public opposed “creeping privatization”. [14]

August 2007: The SRTC at Stracathro Hospital became fully operational, with the beginning of major joint replacement surgery. It was reported that an operating theatre with a controlled environment, which was unused since the start of the NHS ADTC, was brought back into use for major joint replacement surgery [15]. However, this theatre has been in use since the start of the NHS ADTC.

20 August 2007: It emerged that NHS Tayside has to pay a minimum of 90% of the agreed SRTC contract price, i.e. the NHS Boards involved must send 90% of the patients promised to Amicus Healthcare (Scotland) Ltd if it is not to pay for patients who are not treated [16].

5 October 2007: A request for the costs of the SRTC contract was sent to NHS Tayside Board under the Freedom of Information (Scotland) Act 2002. If all the stages of the procedure set out in the Act are gone through, it can be expected that a decision by the Scottish Information Commissioner will be available in about eleven months.

2 November 2007: A reply to the Freedom of Information request was received from NHS Tayside. *“The costs that have been redacted from the published contract will not be disclosed. Such disclosure would be likely to prejudice substantially Netcare Healthcare UK Ltd.’s commercial interests (FOISA Section 33(1)(b)) in as much as they have devised this pricing structure based on their own calculations and procedures. These calculations and procedures are the basis of their ability to successfully compete for this and any other contract. This information if released could be of use to Netcare Healthcare UK Ltd.’s competitors with a subsequent prejudicial effect on Netcare Healthcare UK Ltd.”*

However, it was stated that the average monthly payment made by NHS Tayside to Netcare Healthcare UK Ltd. from January to June 2007 was £207,432.97. It was noted that these payments will increase on the commencement of major joint surgery, which was in August 2007. We assume this disclosure means that the monthly payments from NHS Tayside to Netcare UK are in the public domain.

3 November 2007: In accordance with the requirements of the Scottish Information Commissioner a request for a review of the response to the Freedom of Information request was sent to NHS Tayside.

5 December 2007: The review of the first response to the Freedom of Information request was received from NHS Tayside. The review confirmed the original response and adds that the confidence of current and future contractors to engage with NHS Tayside would be diminished should what they deem to be commercially sensitive information be disclosed. It was stated that it would not be in the public interest for public authorities to be restricted in their ability to negotiate and tender for services to achieve value for money in the expenditure of public funds and also it would not be in the public interest to restrict access to private sector services where this is a means by which patients can be provided with the care they require.

Therefore the opinion of NHS Tayside was that application of Freedom of Information (Scotland) Act 2002 Exemption Section 33 1(b) was still applicable to the request.

12 December 2007: The Scottish Government Health Department published *Better Health, Better Care: Action Plan*, [24] the health strategy of the new administration. The three main components are health improvement, tackling health inequalities and improving the quality of health care. The document states: *“Our model of improvement is built around the existing strengths of NHS Scotland – a collaborative, integrated approach based on traditional values. We will therefore retain our unified Board structure and ensure that NHS Scotland remains firmly in the public sector – a public service delivered in partnership with the public.”* This statement is welcome.

In Section 2.4, *Tackling Health Inequalities*, one of the Ministerial Task Force on Health Inequalities priorities is *“a multi-agency approach in which public, private and third sectors work together with strong government leadership”*. However, it was not made clear which areas of the private sector are referred to in this statement, although the Task Force is led by the Minister for Public Health and the main context of the section is public health and primary care.

The proposals included expanding community pharmacies to include nurse-led minor injury treatments, sexual health screening, simple diagnostic tests and some adult immunizations as well as a move to earlier and later general practitioner appointments. There was also to be, by 2011, an end to prescription charges and a target of maximum wait from referral to treatment of 18 weeks. [25]

19 December 2007: A letter requesting an appeal against the review of the decision by NHS Tayside (see above) was sent to the Scottish Information Commissioner. If the appeal is granted, the decision will appear in due course on the Scottish Information Commissioner website. In 2006, the mean time from receipt of papers to a decision was nine months.

7 January 2008: A letter, quoted below, from the Finance Director of NHS Tayside informs us the monthly payments from NHS Tayside to Netcare UK are not in the public domain and, hence, our assumption of 2 November 2007 was incorrect.

“A detailed monthly account of payments to Netcare is not in the public domain. The contract is structured on the basis that an anticipated number of patients and case mix activity will be referred on a monthly basis. At the end of each calendar quarter a reconciliation is undertaken to confirm the actual number of patients treated and actual case mix. The figure quoted in our reply to your email of 5 October, 2007 reflected the average monthly value of activity anticipated in the six-month period January to June 2007. The actual value of activity may be higher or lower. As it happens, the actual value of treatments required was marginally lower than the anticipated value. From August 2007 we have been ramping up major joint activity in a controlled manner. From December 2007 major joint activity is established and from January 2008 we are anticipating the monthly profile will be in excess of £500k.”

NHS TAYSIDE SCOTTISH REGIONAL TREATMENT CENTRE (SRTC) PROJECT TEAMS

There were three Project Teams at NHS Tayside who were involved in the discussions and negotiations concerning the Scottish Regional Treatment Centre (SRTC) Pilot Project at Stracathro Hospital. The remits of the Project Teams are quotes from the Chief Operating Officer and the information on composition and meetings was obtained from the Finance Director.

The Project Board Remit: *“The Project Board had oversight of the strategic management of the project to give assurances to NHS Tayside, NHS Grampian, NHS Fife, Scottish Executive Health Department (SEHD) and National Health Service - Quality Improvement Scotland on the efficacy of the process followed to achieve best value and compliance with regulation.”*

The Project Board comprised of about sixteen managerial and clinical representatives of NHS Fife, NHS Grampian and NHS Tayside, plus two staff side representatives from NHS Tayside, plus one representative from PriceWaterhouseCoopers, plus one representative from the Scottish Executive Health Department, plus one public representative. It met eight times between June 2005 and June 2006, with one final meeting in January 2007.

The Project Team Remit: *“The Project Team focused on the operational aspects of the project providing advice on a range of issues including the selection of procedures, good clinical practice, integration with NHS Tayside systems and quality monitoring.”*

The Project Team comprised of about thirty managerial and clinical representatives from NHS Fife, NHS Grampian and NHS Tayside, plus two staff side representatives from NHS Tayside, plus one representative from PriceWaterhouseCoopers, plus one representative from the Scottish Executive Health Department. It met on nine occasions between June 2005 and June 2006.

The Negotiating Team Remit: *“The principle role of the Negotiating Team was to negotiate with Amicus a contract which expressed in commercial terms the obligations of each party to deliver value for money and to follow good clinical practice and performance monitoring regime to be followed to ensure the objectives of the contract are achieved.”*

The Negotiating Team comprised of six managerial and clinical staff from NHS Tayside., plus two representatives from PriceWaterhouseCoopers, plus one representative of Brodies(solicitors). It met on thirty-one occasions between June 2006 and November 2006. There were no staff side representatives on the negotiating team.

ISSUES AND DISCUSSION

Our main aim in this paper has been to report the information we have gathered, which we hope will help to inform any future discussions.

(1) Openness

There have been no specific debates in the Scottish Parliament on the use of the independent healthcare sector in the provision of clinical services in the NHS in Scotland, or on ISTCs or SRTCs. The SRTC pilot project at Stracathro Hospital was not discussed by the Health Committee of the Scottish Parliament. There were some comments in the Scottish Parliament on the independent healthcare sector in the NHS in Scotland and the SRTC project during debates (26 May 2005 and 27 October 2005) on the Professor David Kerr report on the future of health services in Scotland (Building a Health Service Fit For the Future, published 25 May 2005).

As mentioned earlier in this report, 15 December 2004 was a most important date in the change in Scottish Labour Party policy towards the use of private healthcare companies operating, in the form of ISTCs, on long-term contracts within the clinical services of the NHS in Scotland. On this date the document *Fair To All, Personal to Each: The Next Steps For NHS Scotland* [2] was published by the Scottish Executive, and, in paragraph 4.18, £45million was allocated over the next three years to independent healthcare projects. There was a debate in the Chamber of the Scottish Parliament on the same day, but party leaders received the document only one hour before the debate and many members had not had time to see and read the document before the debate. Several members made adverse comments about this. The Minister for Health and Community Care, Andy Kerr MSP, had not broken any rules, since the Standing Orders of the Scottish Parliament do not govern the timescale for the publication of documents relevant to debates, but clearly what happened was not in the interest of informed debate. The comment from Carolyn Leckie MSP that the fact that the document was not available to all MSPs before the debate was an insult to the Parliament and to democracy just about sums it up.

NHS Tayside gave us some requested information, but said they were not able to answer all questions prior to the publication of the contract, quoting “*commercial confidentiality*”. The contract has now been published on the NHS Tayside website, but no financial data is available [9]. This is in accordance with the advice contained in NHS HDL (2005) 19 [10].

(2) Commercial Confidentiality and Value for Money

As in England, the phrase “*commercial confidentiality*” was used by NHS Tayside and the Scottish Executive Health Department as the reason for not giving financial data. The Chief Operating Officer for NHS Tayside, in his talk to Angus Council, claimed that value for money was assured during the contract negotiations, but we suggest value for money can only be assessed well into the contract, when the actual number of cases treated is known. The

publication of the contract without financial data will inhibit independent assessment of the claim for value for money. Gerry Marr has stated that he could foresee no circumstances that would lead to publication of the prices paid. He said, *“Our decision is based on legal advice. We have a legal obligation of confidentiality to Amicus and I cannot foresee any circumstances in which that advice would alter.”* [17]

In August 2007, Gerry Marr explained that 90% of the agreed fees was the minimum payable to Amicus Healthcare (Scotland) Ltd, regardless of the number of patients treated.[16] Given this minimum payment, we are convinced that value for money can only be assessed after the SRTC has been operating for some time and the number of patients treated is known.

The question must be raised as to whether the time, energy and money spent ensuring the independent healthcare sector had the long-term SRTC contract in Scotland could not have been spent in a better way. We believe that the investment money could have been used to develop the NHS ADTC at Stracathro Hospital in similar ways, e.g. the full use of theatres every day into the evenings, and probably would have been better value for money, when all the costs are taken into account.

(3) Public Consultation and Commercial Confidentiality

From the beginning of our involvement we were concerned about a full public consultation. This was the first ISTC in Scotland and only the independent healthcare sector could apply for the development money. This meant that a change in service provider was inevitable and, therefore, we thought this was a significant decision affecting the operation of the service. On 13 October 2006, we sent our request for a public consultation to the Chairman of NHS Tayside, and asked for the contract not to be signed until a public consultation had taken place. We referred to sections 2B and 7 of the NHS Reform (Scotland) Act 2004. Section 7 states:-

7 Public Involvement

After section 2A of the 1978 Act (inserted by section 9(2)) insert-

”2B Duty to encourage public involvement

(1) It is the duty of every body to which this section applies to take action with a view to securing, as respects health services for which it is responsible, that persons to whom the services are being or may be provided are involved in, and consulted on:-

- (a) the planning and development and*
- (b) decisions made by the body significantly affecting the operation of those services*

- (2) *This section applies to:-*
- (a) *Health Boards*
 - (b) *Special Health Boards, and*
 - (c) *the Agency.*

- (3) *For the purpose of subsection (1) a body is responsible for health services if they are health services-*
- (a) *which it is the function of the body to provide, or secure the provision of, and*
 - (b) *which are provided, or to be provided, to individuals by:-*
 - (i) *the body, or*
 - (ii) *another person on the body's behalf, at the body's direction or in accordance with an agreement by the body with that other person."*

We received a letter on 2 November 2006 from NHS Tayside informing us that that the request had been denied. Also, on the same date, Councillor Speirs informed us, before the Angus council meeting, the contract had been signed earlier in the day, on the basis of a press release from NHS Tayside. In fact the contract was signed on 15/16 November.

NHS Tayside claimed that the Board was not required to engage in a formal consultation because Guidance to Boards (issued by the Scottish Executive Health Department) [18] requires consultation to take place where material changes to services are proposed, for example the closure of a service or hospital. The Scottish Executive Health Department provided similar statements, quoting examples of closure of a hospital or healthcare facility or the relocation of a service.

The current relevant guidance is contained in the Scottish Executive Health Department letter NHS HDL (2002) 42 entitled Consultation and Public Involvement in Service Change – Draft Interim Guidance. [18] There is no clear definition of what is a “*substantial development or variation in any of the services for the provision of which the relevant Health Board is responsible*”. No examples are given, but “*the presumption should always be to involve those affected, those who might be affected, or those with an interest in a proposed service change, at the earliest possible stage.*” The document advises that even temporary changes should be consulted upon and that consultation should commence at the earliest possible stage. The 2002 guidance makes it clear that:

- “end process” consultation is not acceptable
- they should consult on all service changes including new services
- they should develop proposals for service change in partnership with all affected groups and committees
- they should formally consult on the outcome of the development process

The examples quoted by NHS Tayside and the Scottish Executive Health Department do not appear in the guidance document. On the evidence

presented in this section we continue to believe that a public consultation should have been granted.

The divergent views of the authors and NHS Tayside (who were supported by the Scottish Executive Health Department) regarding public consultation could have been tested by a judicial review in the Court of Sessions. Legal advice suggested that the best time to apply for a judicial review was when it was clear that public consultation was not going to take place and before the contract was signed. We did not apply for a judicial review on the basis of the above clauses of the NHS Reform (Scotland) Act 2004 for reasons of cost and because we thought the contract was signed on the day (2 November 2006) we received the letter from NHS Tayside that confirmed our request for a public consultation was denied.

We think that commercial confidentiality works against public consultation. The commercial confidentiality required by the independent healthcare company requires secrecy until the contract is signed, while public consultation principles require the Board to consult as early as possible, and certainly before the contract is signed. There is a conflict here, and this is probably one reason why there have been no public consultations in England when a long-term private healthcare contract is being negotiated with the NHS, except in the two cases where the case has been tested in the courts and the claimant requiring public consultation has won.

In support of the decision not to organise a public consultation, the Scottish Executive Health Department said, *“there has been extensive engagement by NHS Tayside with the public and with staff as the pilot project has developed. The project was structured and planned in such a way as to ensure that stakeholders had regular communication on progress, risks, issues and plans for resolution. A member of the public sits on the Project Board that makes key decisions on the project, as does a representative from the Staff Side of NHS Tayside.”*

We pointed out that extensive engagement with the public in Tayside was an exaggeration of the truth, and the next letter, from the Minister, said *“a process of engagement and communication has already been carried out by NHS Tayside. The scale of this process was much wider than you suggest in your letter of 1 November. The Project Board had wide representation from clinicians around the region who were satisfied with the specification for services. A member of the public was also on the Project Board.”*

We noted that the process of engagement and consultation had changed from *“with public and staff”* to *“wide representation from clinicians”*. In fact, there was no consultation or engagement with the public in Tayside. To their credit, the Chairman and Chief Operating Officer of NHS Tayside did not make claims of public engagement or consultation, and did not mention the public representative on the Project Board.

We received a letter from Nicol Stephen MSP, as the Scottish Liberal Democrat Leader, which made similar points as the Scottish Executive Health

Department as above, but also said the SRTC is not equivalent to English ISTCs and the conclusions of the HCHC do not read across. He also said, *“The scepticism expressed by the select committee in England about the value for money does not read across into Scotland as the project has been independently assessed by audit and the full business case accepted by NHS Tayside.”* He also said, *“The NHS has worked with the independent sector in the past. It is not a new idea. What is happening at Stracathro is to move away from the ad hoc purchase of care towards more structured contracts over a longer term. This new way will allow the patient to benefit in an efficient way.”*

It is true that the NHS in Scotland has worked with the independent sector using short-term contracts. However, it is the long-term contracts in the form of ISTCs, similar to the SRTC contract, that are highly controversial in England. The Scottish Liberal Democrat Party has not addressed ISTCs in their election manifestos.

Currently there is a consultation on the Scottish Government’s intention to introduce independent external scrutiny for major changes in NHS services. Responses must be sent by 25 January 2008.

See www.scotland.gov.uk/Consultations/Current

(4) The Public Representative

As seen above, in letters from the Scottish Executive Health Department the presence of a member of the public on the Project Board was mentioned in the context of a process of engagement and consultation. The implication was that the presence of a single appointed member of the public to the Project Board meant some form of public engagement or consultation.

The public knew nothing about this appointment. The person was not appointed by the public and did not report back to the public. This is a form of “tokenism”, something the Scottish Executive Guidelines on Public Consultation expressly wishes to avoid.

(5) The Scottish Health Council

“NHS Boards have primary responsibility for involving people in decisions about health services. Boards are expected to carry out their duty of involvement in line with Scottish Executive policy on patient focus and public involvement, relevant guidance and, in future, the standards which are currently being developed by the Scottish Health Council.

The Scottish Health Council, a national body with local presence, will scrutinize how well NHS Boards are involving people. The Scottish Health council is a part of NHS Quality Improvement Scotland, which was set up in 2003 to provide an independent check on the quality of health services and provide support on best practice in patient focus and the public involvement. Working together, both organizations will put the views of patients and the public at the heart of service improvement in the NHS. The Scottish Health

council will be a powerful mechanism for holding the NHS to account for its performance in patient and public involvement activities.” [19]

We contacted the SHC to ask for their help in addressing the lack of public consultation around the SRTC project, but we were told they could not be involved because of the direct involvement of the Minister of Health of the Scottish Parliament in setting up the SRTC.

(6) Training of Junior Doctors

Doctors in training need access to relatively high-volume, less-complex procedures to master these skills in order to progress to more complex work. In England the HCHC criticised the Phase 1 ISTC developments for not including the training of junior doctors and this was changed for Phase 2 ISTC developments.

There is no training in the SRTC facility at Stracathro Hospital and National Education for Scotland (NES) are involved in monitoring the impact on NES training programmes.

(7) The Trades Union

The British Medical Association (BMA) in Scotland did not welcome long-term contracts for the private healthcare sector in Scotland. Peter Terry, Chairman of the BMA in Scotland said, *“We are increasingly concerned by the commitment that the Scottish Executive is now making to long-term contracts with the private sector providers. While this may appear attractive to politicians, it is not the solution.”* He also said, *“Diverting investment from the NHS to the private sector will do little to solve the problems of the NHS in the long term.”* [20]

A Tayside consultant, Clive Davis, Chairman of the BMA’s Scottish Consultants’ Association said, *“buying in services from private healthcare providers might be a quick fix to the perennial waiting times problem, but in the long term it could have a catastrophic effect on the provision of NHS services.”* [21]

In Tayside, Robin Hunter, of health union UNISON, was reported as saying there was clear evidence commercial confidentiality was preventing discussion with staff and managers that would normally occur. [22] This may be referring to the fact that staff representatives took no part in the contract negotiations between June and November 2006 (see earlier section on NHS Tayside SRTC negotiating teams).

Apart from the BMA, there has been very little public comment within Tayside and Scotland from the Trades Union on the SRTC at Stracathro Hospital, although UNISON has produced documents and factsheets on the private sector, including ISTCs, in the NHS in England.

(8) A Pilot Project?

The SRTC at Stracathro Hospital was described as a pilot project by NHS Tayside and the Scottish Executive Health Department, so one of our early aims was to get the administration in the Scottish Parliament, led by the Scottish Labour Party, to agree that no similar projects would be undertaken in Scotland until the SRTC project was independently assessed and the results published. Andy Kerr MSP, on 6 December 2006, in a reply to a question from Carolyn Leckie MSP, said that there were no plans to introduce further ISTCs in Scotland at present. However, Jack McConnell MSP, in his speech at Stracathro Hospital on 25 February 2007 was expecting others in Scotland to follow the example of the SRTC and the independent sector provider, Netcare UK. So we had doubts about whether it was really a pilot project.

Recently, in November 2007, a letter from Nicola Sturgeon, Deputy First Minister and Cabinet Secretary for Health and Wellbeing to John Swinney, Cabinet Secretary for Finance and Sustainable Development has assured us that a comprehensive evaluation of the pilot SRTC project will be undertaken prior to the end of the three-year contract. *“The evaluation will clearly need to take account of a number of perspectives, including those of the service provider (Netcare UK), the NHS boards who have contracted to send patients to the Centre and the patients themselves. It will need to examine a number of specific areas of the pilot project, such as value for money, the benefits to patients – particularly in terms of quality of service and shorter waiting times – and whether these benefits could have been, or could possibly in the future be, realised in different ways.”*

Thus, we are now assured that the SRTC will be a true pilot project.

(9) A Political Project?

Since its' inception, the NHS has been a part of the political landscape, with many Governments imposing structural changes, or reforms, in the NHS, usually outlined in election manifestos. For the Westminster election in 1997, the New Labour Party manifesto did not mention the private sector in the NHS, but the private sector was mentioned in the manifestos for the 2001 and 2005 elections. The 2001 manifesto promised *“specially built surgical units managed by the NHS or the private sector.”*

As previously pointed out, the Scottish Labour Party did not mention the development of ISTCs in the White Paper of February 2003 or in the manifesto for the election of March 2003. However, sometime between March 2003 and December 2004 there was a conversion of the Scottish Labour Party (and, presumably, their partners in coalition) to the independent healthcare sector being involved in the clinical services of the NHS in Scotland in the form of ISTCs. Also we have also shown that the leaders of other parties were not aware of plans for the £45million investment into the independent healthcare sector into the NHS in Scotland, and the commitment to ISTCs, until one hour before the debate on 15 December 2004. Thus there was not time for all MSPs to be made aware before the debate. This reflects

poorly on the Scottish Executive Health Department, the Scottish Executive and the Scottish Parliament. We asked the Procedure Committee of the Scottish Parliament for a review of the Standing Orders on this particular issue and suggested that the Standing Orders be changed so that documents relating to a debate should be available to all MSPs at least 24 hours before a debate.

We cannot be sure that there was political pressure from the Westminster Government on the Scottish Executive, but Ruth Wishart wrote, in The Herald, *“John Reid was an evangelical Health Secretary. He would make missionary runs back home to ask why Scotland couldn’t embrace the joys of diversity and the medical market place. Why couldn’t we too sign up for the benefits of the independent sector treatment centres (ISTCs) to augment and shake up the poor old NHS?”* [23].

In our opinion, among the worst aspects of the introduction of the SRTC were that the public had not given a mandate for the introduction of ISTCs into the NHS in Scotland and the public was given no chance to express an opinion on the SRTC project before the contract was signed.

(10) The Effect of the SRTC on the NHS ADTC

We are concerned that there may be an effect on the numbers of patients treated by the NHS ADTC at Strathro Hospital as a result of the work of the SRTC. We assume that patient and activity data for the NHS ADTC will be collected in the same way before and after the advent of the SRTC so that any effects on patient numbers being treated by the NHS ADTC will be apparent.

(11) Performance Indicators and ISD Scotland Data

Performance Indicators are an indication of the quality of care. We do not expect there to be differences in the quality of care between the NHS ADTC and the SRTC, but if the Performance Indicators are different, comparison of quality of care between the SRTC and the NHS ADTC will not be possible, as reported by the Healthcare Commission in England. [3]

ISD Scotland has national data schemes for Patient and Activity Data, Workforce and Earnings Data and Complaints Data. The Patient and Activity Data give an indication of the work completed by various units or departments in hospitals throughout Scotland. NHS Tayside has informed us that data returns for the SRTC will be treated in the same way as other Units within Tayside, and the same people in ISD will deal with this, so the problem in the NHS in England identified by the Healthcare Commission may not apply to the NHS ADTC and the SRTC at Stracathro Hospital.

THE OTHER £30MILLION FOR INDEPENDENT HEALTHCARE

PROJECTS IN SCOTLAND, 2004/5 to 2006/7

In the document "Fair To all, Personal To Each: The Next Steps For NHS Scotland, £45million was allocated to independent healthcare sector projects in Scotland, £15million of which was to support the SRTC pilot project.

The other £30million was allocated, over three years, to the Health Boards in Scotland according to the Arbutnott formula. The Scottish Executive Health Department does not hold details of these contracts and each Health Board must be contacted if details are required of how this money was spent.

Over the three years 2004/5 to 2006/7, Tayside NHS Board received £2.406million for independent sector contracts. Data from NHS Tayside shows the actual money spent over these years was £3.364million as follows:-

| Speciality | Patients | Provider | £000 |
|-------------------|-----------------|-----------------------|----------------|
| Orthopaedics | Out/In-patients | Fernbrae/Ross Hall | 2.032 |
| Orthopaedics | Mobile Theatre | Vanguard at Ninewells | 0.432 |
| Plastic Surgery | In-patients | Fernbrae/RossHall | 0.212 |
| ENT | Out/In-patients | Fernbrae/Ross Hall | 0.409 |
| Neurology | Out-patients | Medinet at Ninewells | 0.201 |
| General Surgery | In-patients | Fernbrae/Murrayfield | 0.078 |
| | | | Total = £3.364 |

In this paper we do not wish to discuss the above short-term projects any further, and we simply record the data as part of the follow-up of the £45million for independent healthcare sector projects announced in the above document.

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