



Confuse & Conceal: The NHS and Independent Sector Treatment Centres

Stewart Player and Colin Leys, Merlin Press 2008 (113 pages)

A Review by Harry Keen

“Our fundamental purpose is simple but hugely important: to restore the NHS as a public service working co-operatively for patients, not a commercial business driven by competition”

An NHS for the future (Labour Party Election Manifesto 1997)

Confuse and Conceal: The NHS and Independent Treatment Centres is a clearly-written, data-rich, little book which anatomises one of the key operations in the current transformation of the NHS. It argues that the implantation into the NHS of the Independent (i.e. Private) Sector Treatment Centres (ISTCs), is accomplishing a major step forward in the unmandated Labour Party reversal of its 1997 declaration. In Opposition, the Labour Party vowed to abolish the NHS market, fiercely opposed the Private Finance Initiative and made clear that, whatever happened to car parks and hospital laundries, clinical services would always be sacrosanct. Since its return to power on a massive wave of popular expectation that the Labour Party would ‘save the NHS’, it has in fact succeeded in advancing NHS marketisation to a point Margaret Thatcher would never have dared.

‘Confuse and Conceal’, aptly describes the mechanisms by which this policy reversal is being accomplished with so little public outcry – as yet – at the dismemberment of the NHS. It presents the beginnings of the ISTC programme, its evolution and its widening influence in the context of a potentially much broader design to expand and complete the incorporation of the NHS into the market economy. It describes, for example, the way in which the health care professional’s hostile concern for the disruptive and destructive effects of an ISTC is presented as an apparent plea for closer integration of the private sector into the NHS! It recounts the confusions and uncertainties about the amount of work actually done by ISTCs, their costings, the terms of contracts, concealed by ‘commercial confidentiality’, even from Parliamentary enquiry.

Chapter 1 outlines the origins and general structures of the two Waves (or Phases) of the ISTC programme. There were already 16 NHS-run Treatment Centres in 2002, set up to try to tackle the enormous backlog of elective surgery when the Government Phase 1 threw open the door to private sector bids. Comparison of the truly NHS Centres with subsequent commercial Independent Sector Centres has never been allowed.

The Wave 1 ISTC programme commissioned private sector ventures to set up professional units, mainly to carry out elective general, orthopaedic and cataract surgical procedures to reduce the long hospital waiting lists. By early 2007, all of the many ISTCs were now confusingly allowed to call themselves NHS Treatment Centres. The smaller Phase (Wave) 2, launched in 2005, but still picking up, is

largely to appoint ISTCs to provide primary care and diagnostic services. More directly interfacing with the public, their intrusion is more difficult to conceal. In many cases they have been challenged as unwelcome to the local public and professionals.

The chapter describes and comments generally upon ISTC contracts, their procurement and their general terms. However, as noted earlier, details of the contracts themselves – involving £5.6 billion of taxpayer's money - are protected by commercial confidentiality and were unavailable not only to the authors but also to the House of Commons Health Committee, specifically directed in 2005 to review the performance of ISTCs! The Chapter does, however, outline some of the alluring financial terms, income guarantees and risk protections enjoyed by successful private companies. It points out that the 'additionality' clauses, which supposedly precluded employment of NHS staff, were substantially violated in Phase 1 and virtually abandoned in Phase 2. In diverting patients, staff and resources, ISTCs can now be more clearly seen to be *replacing* rather than *reinforcing* the NHS.

The individual ISTC projects, their sponsoring private companies and the numbers of procedures contracted, are tabulated for ISTCs for Wave 1 contracts. It is clear that very little data on the operation of the scheme are being collected centrally so that costings, bed numbers, case mix and clinical outcomes are unknown and 'value for money' therefore virtually impossible to estimate.

The next Chapter, assessing ISTC performance to date, draws upon the Fourth Report of the House of Commons Health Committee, 'Independent Sector Treatment

Centres', published in 2006 and the Healthcare Commission 2007 Report on ISTC Quality of Care. Some of the constraints upon the Committee's analysis of the performance of the ISTC programme have already been mentioned. The book draws attention to other areas where the Committee's enquiries were hindered and expresses some surprise at its relatively muted reaction to such frustrations. These included attempts to identify the full, underlying purposes of the ISTC programme, particularly the degree to which it was meant to destabilise existing NHS structures and open the way for what Patricia Hewitt, the then Health Secretary described as the potentially unlimited expansion of private sector activity within the NHS. It concludes that much of the work done by Wave 1 ISTCs was not actually additional work but was transferred activity of procedures that would have been carried out in NHS Trusts.

The authors found much difficulty in obtaining information on the numbers of procedures reported to have been carried out by Wave 1 ISTCs. Much of what they did get was obtained with some difficulty as responses to Freedom of Information requests. When they compared them with figures supplied to the Health Committee and Health Commission by the Department of Health, the authors conclude that "data given to the Healthcare Commission by the DH..... seriously overstate the performance of ISTCs and the Commission's statement.....is untrue! The major shortfall in projected ISTC activity occurred despite measures taken to divert patients from the sound NHS establishments to which they had been referred into flagging ISTCs, and even despite the very substantial cash sums offered to GPs to refer patients to ISTCs rather than NHS units. And despite all the efforts to inflate the

apparent ISTC performance, the Health Committee concluded that the programme had had little if any influence on the reduction of waiting time.

Chapter 3 opens: “The true significance of the ISTC programme can only be grasped by seeing it as a crucial step in the replacement of the NHS as an integrated public service by a healthcare market, in which private providers will play a steadily increasing role”. The chapter then sets out to examine the evidence and the arguments in support of this hypothesis. It points to the ways in which the new private sector is being persuaded to move ‘down-market’, to expand its operation from its traditional more prosperous insurance ‘élite’ to a much larger, tariff-constrained NHS customer base. It considers the question of risk management and the importance meeting investors’ anxieties that public disaffection may threaten market sustainability.

The ISTC programme is still small but nonetheless seen as provoking mind reset among health care professionals as well as reorientating the thinking of the private health care industry. Other features of the contemporary scene such as the new Consultant contract can be portrayed in this light, offering greater market flexibility, with Consultant Chambers and ‘Fee for Service’ payment also important elements of the “new market realities”. Seen in this light also, the shifts of diagnostic and therapeutic activity out of the hospital, grouped into a new, refurbished, community configuration, the Ara Darzi vision, can be represented as a potentially marketable investment prospect. They will doubtless be sold to a dubious public as was PFI as a quick way to build now but pay later. This market-driven alternative will maintain the brand name, livery and social image of the NHS but little else.

At the heart of the ISTC programme and directing its broader drive for market transformation of the NHS is what the authors propose is a 'policy community', "an inner cadre of people with shared ideas and inside knowledge" surrounded by a growing circle of health policy theoreticians, management gurus, company executives, perhaps even a few health professionals. We find some familiar names among them. They constitute the NHS National Leadership Network (NLN). Doubtless in the tradition of Mrs Thatcher's 1980s NHS policy tea parties at Chequers, NLN is intended, we learn, to "provide collective leadership for the next phase of transformation...and promote shared values and behaviours". No doubt full of entrepreneurial notions, this NLN, but transparency, public contestability and democratic accountability appear not to be amongst them. Even the Foundation Hospital Trusts appear to be preparing for action with Monitor telling the Health Secretary to get his regulatory tanks off their lawns (John Carvel in the Guardian, Feb 19, 2008 NHS chief accused of eroding hospitals' independence).

In a brief Postscript section, the authors consider the impact of the Gordon Brown succession on a private sector health policy that might be thought to have been a peculiar enthusiasm of his predecessor, Tony Blair. Hints that the pace of the ISTC programme might be slowing and the Government appetite for privatisation waning are dismissed as illusory, masking what may in fact be an intensification of the process but transferred from central to local procurement and so even more readily obscured from national inspection and evaluation.

Some will doubtless dismiss the well presented case of Confuse and Conceal as an ingeniously constructed ideological delusion. Others will be stimulated by the compelling structure of its evidence and argument to redouble their efforts to protect the NHS from the growing corrosion of commercialisation. It will be difficult for the well-intentioned, unaligned reader to escape the conclusion that it is more likely than not that unless something is done, this great social enterprise, the NHS, will fall prey to an implacable determination to dissolve it into a profitability-driven, market-based, collection of competing enterprises. For the general public and even for members of the health care professions, the constant procession of reorganisation, restructuring and renaming leaves much of the NHS organisation as puzzling and sometimes incomprehensible. But whatever their start point, everyone who has concern for the future of the NHS will gain in their understanding of its present predicament from reading this book. Clear and direct, it should persuade many of the current threats to its future function, even to its future existence, hopefully at the very least to invoke the precautionary principle and add their voices to the rising warning chorus.

As a post script, it is an ominous prospect that in Phase 2, a private company appointed by the Primary Care Trust to commission services will be able to direct NHS patients to its own company ISTC service providers!