

## **NETCARE BRIEFING**

In a debate in the Scottish Parliament on the 23 February this year, Scottish Health Secretary Andy Kerr<sup>1</sup> boasted that performance figures for waiting lists were the best ever recorded for NHS Scotland. According to him it was the result of a whole-system, collaborative approach; "A good example being the detailed planning that is being undertaken for the East of Scotland elective treatment centre at Stracathro, which will expand elective capacity and separate it from unscheduled care". When asked about care standards in privately owned but NHS-funded units, Kerr said that people "don't give a jot" who owns these facilities, rather "they want the service and we need to deliver it to them".

### **The plans for a private ISTC at Stracathro NHS hospital?**

On 2<sup>nd</sup> November Amicus Health signed a 15 million pound contract to provide elective surgery within Stracathro Hospital. It will run the dedicated 24-bed ward<sup>2</sup> and provide 8,000 elective (non-emergency) cases in orthopaedics, urology, general surgery and gastroenterology over 3 years. The treatment centre will provide elective care to 3 Scottish Health Boards - Tayside, Fife and Grampian.

### **Amicus Healthcare?**

Not to be confused with the largest manufacturing union in the UK, Amicus Healthcare is a subsidiary of Netcare. Amicus was the arm of the health services company General Healthcare Group (GHG), which tenders for NHS contracts. Its other arm - BMI Healthcare - runs private hospitals. In 2004 GHG achieved an annual turnover of £699 m, with an operating profit of £153m<sup>3</sup>. Until April 2006 GHG was the largest private healthcare group in the UK with over 50 hospitals. In April Netcare bought out GHG for £2.2bn - the biggest healthcare deal in Europe for the past 10 years<sup>4</sup>.

### **Netcare**

The South African healthcare conglomerate owns the leading private hospital and doctor network on the African continent. The company showed a 25.5% increase in operating profit for the first 6 months of 2006 to over R550m from total revenue of over R4bn. Netcare's UK arm showed revenue increasing by 116% to R129.6m (2005: R60m), with operating profit having improved by 205.3% to R11.6m (2005: R3.8m)<sup>5</sup>; and the purchase of GHG increased

Netcare's total number of hospitals to 120 with over 11,000 beds, 510 operating theatres, and 37 pharmacies<sup>6</sup>. Netcare's global expansion plans include E European countries awaiting access to the EU and the UK. In their own words: "The focus of the division has now been redirected towards developing a sustainable growth strategy that will unlock the potential synergies and growth opportunities that such markets offer"<sup>7</sup>.

### **What does the UK offer?**

There have been two phases of the NHS-funded Independent Sector Treatment Centre (ISTC) programme. Under Wave 1 Netcare won 2 contracts: (a) The Ophthalmic Chain comprising Kent, Merseyside, Cumbria, Lancashire, Hants, and Thames Valley. The contract began in late 2002 when the company contracted to carry out 44,500 cataract removals over the 5-year period; and (b) The Greater Manchester Surgical Centre, a 48-bed facility in Trafford that provides a range of elective services, including general surgery, ENT and orthopaedics. The centre opened in May 2005 and will carry out 44,863 procedures over the contracted period. Under Phase 2 the ISTC programme is augmented by one covering diagnostics. The ISTC contract is worth £2.5bn over 5 years; while the diagnostics programme is valued at £1bn.

Netcare has been named preferred bidder for three 5-year NHS contracts under Phase 2: the first, an ISTC in Cumbria will deliver 220,000 procedures from seven locations in the North West of England; and 2 contracts under the Diagnostics Programme in London and Eastern regions. All 3 contracts begin in 2007. It will also open 2 NHS walk-in centres in London and Leeds, and in July 2006 won a deal under the NHS' integrated assessment and treatment services in Manchester - in other words a commissioning role for elective care. The Department of Health has refused to give contract value for the Netcare contracts in the NHS<sup>8</sup>.

### **Are waiting lists being tackled?**

The Government argues that the ISTC programme is introducing much-needed competition and choice into the NHS stimulating innovation and productivity whilst providing excellent value for money. A recent Health Select Committee report didn't agree<sup>91011</sup>. Crucially it noted the adverse the impact on the economy of the NHS, both local and national, and the claims of improved value for money (VFM) that the programme involves, could not be evaluated because the DH wouldn't release to the Committee either their analysis or their detailed figures for VFM calculation.

The Department's refusal to reveal its findings on the ISTC programme's impact on the health economy and on VFM is a blunt disregard of Parliament's power of public probity.

#### **How the NHS subsidising private shareholders?**

Part of the rationale for using the private sector is that risks are transferred and managed better by the private sector. This is the case for the higher cost of case.

The DH has made a dual tariff system available to ISTCs, whereby additional costs associated with the programme, up to a ceiling of 25% over and above the NHS Equivalent Cost, are paid for by central Government. Construction and equipment cost risks are included in this dual tariff. The Government has also taken on residual value risk, which according to the 'Times', involve "multimillion-pound 'residual value' packages – agreed sums to be paid to the private companies for their facilities should their five-year contracts not be renewed"<sup>12</sup>.

The draft Business Cases for Netcare's Ophthalmology Chain OC1, 2 & 3, reveal that Netcare retains only the risk of additionality; increasing elective care capacity through providing non-NHS staff. In other words demand risk ie the risk that patients don't go is retained by the NHS.

#### **Additionality**

According to the DH, "ISTCs will use mainly additional staff. However, in some cases, where a structured arrangement is agreed between the local NHS commissioners and the provider, NHS staff may work in an ISTC – this may, for example, be on a secondment basis"<sup>13</sup>. The Director of the NHS Commercial Directorate Ken Anderson told the Financial Times in June 2005, "the original "additionality" rule had been introduced 'to protect the NHS from having staff poached by the independent sector . . . and paying more money for it'".<sup>14</sup> Initially secondment of NHS staff was only allowed if services were actually transferred from existing NHS trusts to ISTCs. A change to existing services would have required at least public consultation.

However in practice about 50% of doctors on Wave 1 ISTCs are on structural secondment<sup>15</sup>, and the rationale has changed to one of doing the work more efficiently, rather than add to the volume of NHS operations<sup>16</sup>. Whether the terms of the original contracts have been altered to

adjust the different risk profile - i.e. that the DH should not be "paying more money" if at least half are actually NHS employees - is as yet uncertain. What is known however, is that for Phase 2 the additionality rules will be further relaxed. But this means that public consultation will be imperative.

### **The cost to the NHS of risks retained**

The NHS retains demand and clinical performance risks. Under the contract agreements the NHS is forced to pay for procedures even if they are not performed. Netcare's Greater Manchester Surgical Centre cost the local health economy nearly £2m in its first 9 months of operation owing to PCTs through having to pay for procedures not performed<sup>1718</sup>; and its facility in Oxfordshire lost the local health economy over £200,000 in its first 6 months. A report found that the cataract centre carried out only 93 of the 572 procedures it had been contracted to perform since the contract began, with PCTs having to pay £255,000 for work that should have cost £40,000<sup>19</sup>.

### **How the NHS carries the risk and costs of Netcare's poor quality of care**

Netcare's mobile cataract units in Cumbria had failure rates 6 times that of local NHS facility<sup>202122</sup>. 2 television reports<sup>23</sup> highlighted disastrous surgical problems at its orthopaedic unit in Portsmouth with repairs having to be performed in the NHS<sup>24</sup>. An Exeter legal firm is currently contesting 12 cases of clinical malpractice, having already won 2<sup>25</sup>. In terms of risk it's been the NHS that has paid for Netcare's sub-standard care. Under the NHS' Litigation Authority Clinical Negligence Scheme<sup>2627</sup> all PCTS contribute to a risk pool from which claims are settled. This covers ISTCs despite the fact they don't contribute financially.

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<sup>1</sup> The Scottish Parliament. Official Report 23/2/2006. P62.

<sup>2</sup> Stracathro preferred bidder status announced. 27 Jul 2006.

<http://www.netcareuk.com/netcare/media/news/?ref=21&year=>

<sup>3</sup> General Healthcare Group. Company Results. <http://www.generalhealthcare.co.uk/>

<sup>4</sup> South Africans make £2.2bn GHG swoop. Peter Smith and Lina Saigol, Financial Times. Apr 26, 2006

<sup>5</sup> [http://www.netcareinvestor.co.za/database/downloads/Interim2006\\_press%20release.pdf](http://www.netcareinvestor.co.za/database/downloads/Interim2006_press%20release.pdf)

<sup>6</sup> <http://www.netcareinvestor.co.za/database/downloads/2006interimsresultspresentation.pdf>

<sup>7</sup> Private hospital group deal is boost for Netcare's ambitions. Nicholas Timmins, Financial Times. Apr 29, 2006.

<sup>8</sup> Email communication from the Department of Health's Commercial Directorate. 4/4/2006.

<sup>9</sup> House of Commons. Health Select Committee. 25 July 2006. Fourth Report. Independent Sector Treatment Centres, HC 934-I; HC 934-II, HC 934-III.

<sup>10</sup> MPs attack treatment centre programme. Nicholas Timmins, Financial Times. Jul 25, 2006

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<sup>11</sup> “Three-quarters of National Health Service chief executives do not believe the government's use of private sector treatment centres is good value for money, and almost 80 per cent say that the initiative is diverting resources away from NHS facilities”. Private treatment centres 'threaten' NHS services. Nicholas Timmins, Financial Times. Jan 20, 2005.

<sup>12</sup> High cost of private care firms adds to hospitals' cash crisis. The Times March 08, 2006. The same article notes, “Private companies brought into the NHS to increase capacity are costing the Government millions of pounds more than it has admitted, adding to the huge financial pressures on the NHS. Documents obtained from health trusts suggest that some companies contracted to provide elective surgery — such as knee, hip and cataract operations — are far less competitive than ministers suggest. It is widely believed that the accumulation of such financial problems prompted Sir Nigel Crisp, chief executive of the NHS, to announce his resignation yesterday”.

<sup>13</sup> Treatment Centres FAQ. Department of Health.

[http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/SecondaryCare/TreatmentCentres/TreatmentCentresArticle/fs/en?CONTENT\\_ID=4016142&chk=/rdmVF](http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/SecondaryCare/TreatmentCentres/TreatmentCentresArticle/fs/en?CONTENT_ID=4016142&chk=/rdmVF)

<sup>14</sup> Recruitment requirements for privately run treatment centres set to be diluted. Nicholas Timmins, Financial Times. Jun 09, 2005

<sup>15</sup> It can be as high as 83%. See Waltham Forest PCT Full Business Case.

<sup>16</sup> The case for higher productivity from ISTCs remains unproven. In January 2005 a DH press release claimed that ISTCs providing cataract services were undertaking operations at 8 times the level of that within the NHS. While this ignores the range of ophthalmologic services that an NHS hospital will offer – there is no comparison of like with like – an FOI request by the Centre for International Public Health Policy at Edinburgh University to the DH requested the research documentation that led to the claims of increased productivity. After several weeks of delays and promises to send the information, the DH said they had lost the initial FOI and could we resubmit. After the resubmission and more weeks of delay the DH finally offered a list of Finished Consultant Episodes by the NHS for the year 2002-2003. These were simply given on their own. While FCEs for cataract care were offered, there was no indication of the productivity rate. Similarly no comparable figures were given for Netcare's productivity rates. A further appeal against the inadequacy of the information was lodged and still waits response. Waiting times for such appeals are well in excess of 18 weeks.

<sup>17</sup> Bernard Ribeiro, president of the Royal College of Surgeons of England, has said hospital wards across Greater Manchester are closing because a private clinic is attracting funds from the NHS. At the same time as Trafford Acute Trust last week announced that two 26-bed wards will shut at Altrincham General, millions of pounds of public money is being channelled into the private Greater Manchester Surgical Centre in Trafford, a 48-bed unit run by Netcare and staffed with South African surgeons. Ribeiro said that in the first six months of this year, £2 million had been diverted away from Trafford to fund treatments at the private clinic. Manchester Evening News. 13/5/2006.

<sup>18</sup> GPs are being offered a £30-per-patient 'bung' to refer patients to an underused independent sector treatment centre run by Netcare. Figures from Ashton, Leigh and Wigan PCT showed only 243 patients had been treated at the centre up to February this year, compared with an expected level of 711. Earlier figures from September last year show the PCT had paid out almost £500,000 to that point for operations not carried out. A spokeswoman for the General Medical Council said it was "concerned the standards may have been breached". Pulse 12 May 2006

<sup>19</sup> Oxford Mail 27 May 2006.

<sup>20</sup> Eye Journal: 2005, 1-8. 'Reflective consideration of postoperative endophthalmitis as a quality marker'. SP Kelly, D Mathews, et al.

<sup>21</sup> Eye Journal: 2005, 19. 'Independent Sector Treatment Centres: early experience from an ophthalmic perspective'. JD Ferris.

<sup>22</sup> British Journal of Ophthalmology: 26/10/05. 'Cataract Care is mobile'. SP Kelly. This article found that “There were concerns over the lack of risk assessment for treatment of post-operative complications for patients in general and those with co-morbidity, such as glaucoma and diabetic retinopathy. Complex cases would also be excluded from the mobile units. These initially theoretical fears have been realized with evidence of poor arrangements for the management of post-operative complications coming to attention in a number of incidents”. Kelly also points to differences in clinical practice and governance. In many cases “members of clinical teams have just arrived from overseas and been expected to proceed with complex clinical tasks without the benefit of familiarization with equipment vital in providing safe patient care. One example has been the failure to use pre-operative povidone-iodine which resulted in an increased frequency of PIE”. However when the problem was spotted and povidone-iodine was used in later cases, the PIE frequency returned to

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baseline. Robust on-call rotas for emergencies were also absent from Netcare's activities, which in fact led to the resignation of their medical director for England.

<sup>23</sup> BBC News (April 2004); and Channel 4 News (December 2005).

<sup>24</sup> Following the 2004 BBC report Portsmouth Hospitals NHS Trust confirmed concerns as to the quality of five hip replacement operations carried out by one Netcare surgeon, with two patients identified as requiring corrective surgery. Exeter solicitors Michelmores have been pursuing several cases brought against Netcare, and argued that the focus on one surgeon was misplaced and ignored the failure rates of others employed by the company. The legal firm announced in December 2005 that they had taken on another 12 cases relating to orthopaedic failure at Haslar. The news followed a Channel 4 News report highlighting examples of poor clinical performance, resulting in complications that patients had to have corrected in the NHS. The investigation included claims from former staff that patients were given drugs contrary to national guidelines to lower their high blood pressure. This was in order that Netcare surgeons could carry out the operations immediately. In addition, the item reported that Netcare doctors were "under pressure to hit high target numbers".

<sup>25</sup> Email and telephone conversations with Laurence Vick, Michelmores. September 2006.

<sup>26</sup> Independent Sector Treatment Centres and CNST. January 2006. National Health Service Litigation Authority: [www.nhs.uk/claims/schemes/CNST](http://www.nhs.uk/claims/schemes/CNST)

<sup>27</sup> North Oxfordshire PCT Partnership. Paper No. JO5/89. Horton Treatment Centre: Insurance Against Clinical Risk. 2/9/2005.