

## Policy Briefing 1/2010

The independent sector in health and social care in England in 2009 and prospects for the future



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## Summary

Defining the independent sector (IS):

- the independent sector encompasses individuals, employers, and organisations contributing to needs assessment, design, planning, commissioning and delivery of a broad spectrum of health and social care, who are wholly or partially independent of the public sector. This includes care homes, private hospitals and charities
- the sector is a complex continually evolving over time and this briefing captures the IS at a single point in time.

The independent sector in 2009:

- the IS always has, and continues to deliver both health and social care in England
- the IS includes charitable organisations, social enterprises and commercial organisations providing a wide range of services from care homes, occupational health through to acute hospital care
- over a quarter of RCN members are in the IS (and perhaps more)
- the IS is also increasingly active in advising commissioners and the DH on policy, strategy and providing support on commissioning
- the NHS also earns money from private patients and many GPs are private contractors and many consultants also work privately
- the DH has centrally procured delivery of health care for NHS patients from the IS ranging from diagnostics, secondary care, primary care, and buildings. The local NHS and local authorities also procure from the IS
- experience with centrally procured delivery of health care by the IS under the independent sector treatment centre (ISTC) programme illustrates that there are both pros and cons to using the IS.

The IS in the future:

- the IS is likely to continue to play a role in direct provision of services and supporting commissioning
- in the future there is likely to be greater involvement of the IS to ensure that NHS patients have speedy access to some treatments
- the IS may become more active in the community as primary care trusts (PCTs) divest their provider services
- the IS could, in theory, also play a role in managing and running 'failed' hospitals
- there is also some likelihood that the NHS can no longer afford to pay for all the treatments and services that are demanded by patients (and this has already happened in the case of some expensive medicines). These patients will therefore have to pay themselves for such treatments and services, and may decide to use the IS for these treatments and services.

RCN View:

- the RCN passionately supports the NHS model whilst also recognising that members of the RCN work in both the NHS and non NHS sectors
- the RCN supports organisations who meet the RCN Principles of:
  - quality – which includes themes of safety, dignity and effectiveness
  - accountability – including transparency and trust
  - equality – which includes universality, equity and diversity
  - partnership – including representation and collaborative decision making.

## Introduction

This briefing provides an overview of the diverse non-NHS sector that is playing an increasingly important role in shaping and delivering health and social care in England. It is intended to:

- suggest a refined definition of the sector
- provide basic facts about the range and extent of IS activity in health and social care in England
- a look forward at the sector and the implications for patients and nursing.

It is important to note that the sector is a complex and continually evolving over time and this briefing captures the sector at a single point in time.

## Context

Whilst the RCN passionately supports the NHS model, we recognise that our members work both within and outside the NHS and that the IS is a vital part of a comprehensive provision of high quality health and social care services.

The RCN does not have any ideological objections to the involvement of the IS but does have a range of principles it uses to review all developments around the partnership between the NHS and the IS. Those principles are summarised below:<sup>1</sup>

- quality – which includes themes of safety, dignity and effectiveness
- accountability – including transparency and trust
- equality – which includes universality, equity and diversity
- partnership – including representation and collaborative decision making.

Government policy continues to emphasise the role of the IS as both a provider of care and as a support to commissioning of care. Where NHS services are deemed to have failed, commissioners have turned to the IS to provide management capacity and other expertise to improve patient care.

<sup>1</sup>RCN (2008) *RCN principles to inform decision making: what do I need to know?* Available at: [www.rcn.org.uk/\\_\\_data/assets/pdf\\_file/0009/78696/003034.pdf](http://www.rcn.org.uk/__data/assets/pdf_file/0009/78696/003034.pdf)

## What is the independent sector?

The RCN in 2006/2007 developed a definition which identifies the IS as encompassing individuals, employers and organisations delivering the broad spectrum of health and social care, who define themselves as wholly or partially independent of the public sector.<sup>2</sup>

NHS evidence provides a definition focused on ISTC:

'IS health care organisations provide greater scope to introduce new and innovative ways of delivering health care to NHS patients by adapting the traditional NHS model to suit local health care needs. Some centres are refurbished sections of existing hospitals, or new buildings and some are mobile units that travel around the country. Patients treated at any NHS treatment centre that is managed by an independent health care company are still NHS patients. Care and treatment is free and patients can expect the same level of service they would expect from the NHS. GP or local support services can give patients information about the choices that are available.'<sup>3</sup>

The IS is diverse and complex and ranges from single care home organisations to large acute care providers in health as well as provision of social care. This includes privately owned companies, large charitable institutions and social enterprises.<sup>4</sup>

However, now the IS could be expanded to cover a broader definition including a number of functions which do not relate to front line delivery, but influence what is delivered through outsourcing of commissioning functions to commercial sector companies.

A new suggested definition for the IS to be used by the RCN is therefore: the independent sector encompasses individuals, employers, and organisations contributing to needs assessment, design, planning, commissioning and delivery of a broad spectrum of health and social care, who are wholly or partially independent of the public sector.

It is also important to recognise that the NHS itself includes private pay beds/units in NHS hospitals. These pay beds allow NHS hospitals to offer private treatment to some patients. There is a lack of consistent data about the number of admissions that use pay beds in the NHS, and the revenue that they generate.<sup>5</sup> There is also uncertainty in how far the charges paid by private patients cover the costs of delivering care.<sup>6</sup> Additionally, the majority of GPs are private contractors and many NHS consultants also work privately.<sup>7</sup>

<sup>2</sup> RCN (2006) *The independent sector's contribution*. Available from: [www.rcn.org.uk/newsevents/congress/2007/2006\\_reports/the\\_independent\\_sectors\\_contribution](http://www.rcn.org.uk/newsevents/congress/2007/2006_reports/the_independent_sectors_contribution)

<sup>3</sup> RCN (2006) *The independent sector's contribution*. Available from: [www.rcn.org.uk/newsevents/congress/2007/2006\\_reports/the\\_independent\\_sectors\\_contribution](http://www.rcn.org.uk/newsevents/congress/2007/2006_reports/the_independent_sectors_contribution)

<sup>4</sup> Note that non NHS hospitals can be referred to as both private hospitals and independent hospitals.

<sup>5</sup> Health Service Journal (2009) *Trusts in the dark over cost of private patients*. Available from: [www.hsj.co.uk/news/finance/trusts-in-the-dark-over-cost-of-private-patients/5001878.article](http://www.hsj.co.uk/news/finance/trusts-in-the-dark-over-cost-of-private-patients/5001878.article)

<sup>6</sup> JRSM (2008) *Analysis of consultants' NHS and private incomes in England in 2003/4*. Available from: [www.pubmedcentral.nih.gov/articlerender.fcgi?artid=2442143](http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=2442143)

<sup>7</sup> JRSM (2008) *Analysis of consultants' NHS and private incomes in England in 2003/4*. Available from: [www.pubmedcentral.nih.gov/articlerender.fcgi?artid=2442143](http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=2442143)

## Use of the IS

There are a number of ways that public funds are being used in the IS. A summary is provided in the table below and covers separately:

1. delivery of health care (both primary and secondary care)
2. delivery of social and domiciliary care
3. financing of physical capacity (buildings and equipment)
4. strategy and commissioning support to the NHS.

It's also worth noting that it is difficult to assess the full scale of IS activity because local provision varies and statistics are not always centrally collated. Our members have suggested that there has been an increase in care being commissioned and provided in home care settings for adults and children as well as more complex care in a community setting.

The IS is increasingly providing strategy and commissioning support to the NHS as a result of wider policy drives to split commissioning and provision (so that there are separate agencies who consider needs and undertake contracting to those agencies who deliver care) and to increase competition in the NHS. IS support is one option to aid the development of world class commissioners.<sup>8</sup> They can input in a number of ways:

- assessment and planning
- contracting and procurement
- performance management
- settlement and review
- patient and public engagement.

These encompass activities such as the identification of population health needs, data collection, analysis and distribution, the design of care pathways and the implementation and management of contractual arrangements.

<sup>8</sup> Department of Health (2008) World Class Commissioning. Available at: [www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_083268.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_083268.pdf)

**Table 1: Overview of use of IS by the public sector/NHS<sup>9</sup>**

Activity and sector	Type of IS	Public sector use of IS	Rationale for public sector use	Scale
<b>Delivery of health care</b>				
Secondary care (e.g. hip operations)	Independent sector hospitals	1. Spot purchasing 2. DH central procurement of activity from existing IS hospitals <sup>10</sup>	1. To overcome short term capacity constraints 2. To deliver 18 week target using readily available capacity	1. £305m in 2007 <sup>11</sup> 2. Unknown share of £270m in 2007 <sup>12</sup>
Secondary care (e.g. hip operations)	Independent Sector Treatment Centres (ISTCs)	DH central procurement of activity	1. To increase the capacity available to treat NHS patients; 2. Offer patients a choice over where they are treated; 3. Stimulate innovation in the provision of health care.	Unknown share of £270m in 2007 <sup>13</sup>
Secondary care (e.g. hip operations)	Independent Sector Extended Choice Network or Free Choice Network (IS ECN/FCN).	Patient choice includes IS	To provide choice to patients	£83m from April 2007 to December 2008 <sup>14</sup>

<sup>9</sup> Appendix 1 provides the top 10 by value IS providers to the NHS.

<sup>10</sup> Department of Health (2006) *Independent sector treatment centres*. Available from: [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4128686](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4128686)

<sup>11</sup> Laing and Buisson (2008) *Self-pay private healthcare falls as economic slowdown bites but NHS spending supports growth for private hospitals*. Available from: [www.laingbuisson.co.uk/Portals/1/PressReleases/Laings\\_Review\\_2008.pdf](http://www.laingbuisson.co.uk/Portals/1/PressReleases/Laings_Review_2008.pdf)

<sup>12</sup> Laing and Buisson (2008) *Self-pay private healthcare falls as economic slowdown bites but NHS spending supports growth for private hospitals*. Available at: [www.laingbuisson.co.uk/Portals/1/PressReleases/Laings\\_Review\\_2008.pdf](http://www.laingbuisson.co.uk/Portals/1/PressReleases/Laings_Review_2008.pdf)

<sup>13</sup> Laing and Buisson (2008) *Self-pay private healthcare falls as economic slowdown bites but NHS spending supports growth for private hospitals*. Available at: [www.laingbuisson.co.uk/Portals/1/PressReleases/Laings\\_Review\\_2008.pdf](http://www.laingbuisson.co.uk/Portals/1/PressReleases/Laings_Review_2008.pdf)

<sup>14</sup> Department of Health (2008) *Independent sector extended choice network activity*. Available from: [www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_098744.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_098744.pdf)

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Specialist services (e.g. cancer care at the end of life)	For example, Marie Curie	Local NHS can commission services	To provide specialist services	Unknown
Primary care	Commuter walk in centres (WiC)	DH central procurement	To meet the needs of commuters <sup>15</sup>	7 WiCs £ unknown
Primary care	Polyclinics/equitable access to Primary Medical Care programme	DH central procurement	To provide 'one stop shops' delivering a range of services	£40m in 2007 <sup>16</sup>
Diagnostics	MRI	DH central procurement	To provide MRI capacity	80,000 scans over 5 years <sup>17</sup>
Cross border health care	NHS patients can have care provided by providers outside of the UK	Driven by patients who may pursue care outside of the UK under EU rules or commissioners who may commission care where there is limited capacity in the UK (however this scheme closed in 2005) <sup>18</sup>		Unknown
<b>Delivery of social and domiciliary care</b> <sup>19</sup>				
Social care / domiciliary care	Care homes, day care centres etc	Local authority paid for places		£19bn 2008/2009 by LA <sup>20</sup> £2.15bn from users themselves in 2007/2008 <sup>21</sup>
<b>Financing of physical capacity</b>				
Private finance initiative (PFI)	Private consortia, usually involving large construction firms, are contracted to design, build, and in some cases manage new projects. Contracts typically last for 30 years, during which time the building is leased by a public authority <sup>22</sup>	Public private partnership (PPP) – local NHS with IS	Improve the secondary care estate	£12bn <sup>23</sup>
LIFT (Local Improvement Finance Trust)	NHS LIFT is a vehicle for improving and developing	PPP – local NHS with IS	Improve the primary care estate	£1,500m over LIFT programme <sup>25</sup>

<sup>15</sup> NHS Choices (2009) Emergency and urgent care services. Available from: [www.nhs.uk/NHSEngland/AboutNHSservices/Emergencyandurgentcareservices/Pages/Walk-incentresFAQ.aspx](http://www.nhs.uk/NHSEngland/AboutNHSservices/Emergencyandurgentcareservices/Pages/Walk-incentresFAQ.aspx)

<sup>16</sup> Laing and Buisson (2008) Self-pay private healthcare falls as economic slowdown bites but NHS spending supports growth for private hospitals. Available from: [www.laingbuisson.co.uk/Portals/1/PressReleases/Laings\\_Review\\_2008.pdf](http://www.laingbuisson.co.uk/Portals/1/PressReleases/Laings_Review_2008.pdf)

<sup>17</sup> United Kingdom Parliament (2004) *Magnetic resonance imaging scanners*. Available from: [www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/v0040421/text/40421w19.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/v0040421/text/40421w19.htm)

<sup>18</sup> Department of Health (2009) *Overseas treatment for NHS patients*. Available from: [www.dh.gov.uk/en/Healthcare/Entitlementsandcharges/OverseastreatmentguidanceforNHS/index.htm](http://www.dh.gov.uk/en/Healthcare/Entitlementsandcharges/OverseastreatmentguidanceforNHS/index.htm)

<sup>19</sup> Note it is extremely difficult to separate out statistics on expenditure on social care and domiciliary care and nursing care in the community.

<sup>20</sup> Communities and local government (2009) *Statistical release. Local authority revenue expenditure and financing England 2009-10 budget*. Available from: [www.communities.gov.uk/documents/statistics/doc/1299474.doc](http://www.communities.gov.uk/documents/statistics/doc/1299474.doc)

<sup>21</sup> The Kings Fund (2009) *Funding adult social care in England*. Available from: [www.kingsfund.org.uk/document.rm?id=8243](http://www.kingsfund.org.uk/document.rm?id=8243)

<sup>22</sup> Department of Health (2009) Private finance initiative (PFI). Available from: [www.dh.gov.uk/en/Procurementandproposals/Publicprivatepartnership/Privatefinanceinitiative/DH\\_677](http://www.dh.gov.uk/en/Procurementandproposals/Publicprivatepartnership/Privatefinanceinitiative/DH_677)

<sup>23</sup> Look after our NHS. BMA (2009). Available from: [www.lookafterournhs.org.uk/wp-content/uploads/private-finance-initiative-no-links-01066.pdf](http://www.lookafterournhs.org.uk/wp-content/uploads/private-finance-initiative-no-links-01066.pdf)



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	frontline primary and community care facilities. It is allowing PCTs to invest in new premises in new locations <sup>24</sup>			
<b>Strategy and commissioning</b>				
FESC (Framework for procuring External Support for Commissioners)	Consultancies	PCTs can use companies included on the FESC to support them in their commissioning functions	To provide support for commissioning	£15m to 16 July 2009 <sup>26</sup>
Commercial Resource Framework	Consultancies	DH and NHS can use companies to provide commercial support	Framework provides the DH and NHS organisations with easy access to a list of pre-qualified suppliers for non-permanent workers with commercial skills	Unknown (open from 1 June 2009)
Other	Consultancies	Strategic health authorities (SHAs) and PCTs can use other companies to support them in their commissioning functions	To provide support for commissioning	£350m in 2007 to 2008 <sup>27</sup> (which is likely to include expenditure on FESC)

<sup>24</sup> Department of Health (2008) *NHS Local Improvement Finance Trust (LIFT)*. Available from: [www.dh.gov.uk/en/Procurementandproposals/Publicprivatepartnership/NHSLIFT/index.htm](http://www.dh.gov.uk/en/Procurementandproposals/Publicprivatepartnership/NHSLIFT/index.htm)

<sup>25</sup> DH Press Release, 13 March 2009, Express LIFT framework partners announced.

<sup>26</sup> Response to PQ by Norman Lamb, 16 July 2009.

<sup>27</sup> RCN (2009) *NHS spending on management consultants is 'shocking'*. Available from: [www.rcn.org.uk/newsevents/news/article/uk/nhs\\_spending\\_on\\_management\\_consultants\\_is\\_shocking](http://www.rcn.org.uk/newsevents/news/article/uk/nhs_spending_on_management_consultants_is_shocking)

In addition the DH will make use of the IS to inform their own work. In 2007/2008 the DH spent £132million on management consultants.<sup>28</sup>

It's important to place the scale of expenditure in context; the total expenditure on the NHS is £102bn for 2009/2010.<sup>29</sup>

## Lessons from the Independent Sector Treatment Centres Programme

The ISTC programme began in 2002 directed by the Commercial Directorate, part of the Department of Health in England.<sup>30</sup> The DH wanted to:

- increase the capacity available to treat NHS patients;
- offer patients a choice over where they are treated;
- and stimulate innovation in the provision of health care.

Others suggest it was primarily as part of efforts to reduce waiting times in the NHS for planned operations and diagnostic tests.<sup>31</sup>

The ISTC programme is different to the use of the IS by the NHS over its entire history by being a deliberate central policy and providing care only to NHS patients and not a mix of both public and private patients.<sup>32</sup>

ISTCs (along with NHS treatment centres) are able to provide dedicated facilities for planned activity (e.g. hip and cataract operations). These facilities do not need to cancel operations due to emergencies which in other NHS hospitals can reduce capacity to treat less urgent cases. They can be either fixed sites or mobile and able to deliver services to different geographical locations. There have been two waves of ISTCs. Wave one includes 25 fixed site centres and two chains of mobile units. Wave two includes 10 schemes (and were more comprehensive in service provision, some covering multiple sites).<sup>33</sup>

Alongside this programme was a separate central procurement by the DH for diagnostics and use of traditional private sector hospitals.

<sup>28</sup> Response to PQ by Frank Dobson, 22 July 2009.

<sup>29</sup> Department of Health (2009) *The health and personal social services programmes*. Available from: [www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_100819.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_100819.pdf)

<sup>30</sup> Department of Health (2006) *Independent sector treatment sectors*. Available from: [www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4128686](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4128686)

<sup>31</sup> The Kings Fund (2009) *The independent sector treatment centres*. Available from: [www.kingsfund.org.uk/research/publications/briefings/independent\\_sector.html](http://www.kingsfund.org.uk/research/publications/briefings/independent_sector.html)

<sup>32</sup> The Kings Fund (2009) *The independent sector treatment centres*. Available from: [www.kingsfund.org.uk/research/publications/briefings/independent\\_sector.html](http://www.kingsfund.org.uk/research/publications/briefings/independent_sector.html)

<sup>33</sup> The Kings Fund (2009) *The independent sector treatment centres*. Available from: [www.kingsfund.org.uk/research/publications/briefings/independent\\_sector.html](http://www.kingsfund.org.uk/research/publications/briefings/independent_sector.html)

There has been considerable interest in ISTCs and their costs and benefits. A number of benefits have been cited including:<sup>34</sup>

- faster and more convenient treatment for patients
- innovation in both delivery and processes
- Value for money by lowering the spot purchase price from traditional private hospitals providing ad hoc services to NHS patients.

Patients have been reported to be very satisfied with their care.<sup>35</sup>

However, this has not necessarily been cheap. Media estimates suggest that ISTCs in the first wave were 'overpaid' by £927million (and the whole programme itself cost £5bn including purchasing of diagnostics and other activities).<sup>36</sup> This figure should be considered with caution though; the full details of activity delivered and payments are not clear. This estimate is based on one example in Scotland and applied across the UK. And estimates from the Kings Fund suggests that overall ISTCs account for less than one per cent of annual NHS expenditure.<sup>37</sup> Value for money is complicated because central purchasing is likely to drive down the cost of IS treatment compared to spot purchasing, patients seen in ISTCs are likely to be different to those seen in acute trusts, and there are different regulatory and accounting regimes making a straight comparison of costs difficult.

The overpayment stems from the potential for NHS funds to have been used to pay for activity which is not subsequently delivered. According to the media around 85 per cent of activity had been delivered up to September 2008.<sup>38</sup> Contracts signed by the DH with the independent sector however means that they will be paid for the full value of the contract even when activity is lower than planned. ISTCs are also paid more than the NHS would be via an uplift on tariff. The potential value of unused activity could be £350million.<sup>39</sup>

The programme has been scaled back; a third wave of procurement was cancelled in 2007, and some schemes under wave one and two were cancelled.<sup>40</sup> There are cost implications of this for both schemes where contracts were signed, and to compensate bidders who were awarded preferred bidder status but where the contract was stopped before it was awarded.

<sup>34</sup> Department of Health (2006) *Independent sector treatment sectors*. Available from: [www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4128686](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4128686)

<sup>35</sup> Department of Health (2006) *Independent sector treatment sectors*. Available from: [www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4128686](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4128686)

<sup>36</sup> Healthcarerepublic (2009) *NHS overpaid sector treatment centres by £927m*. Available from: [www.healthcarerepublic.com/search/news/935257/NHS-overpaid-independent-sector-treatment-centres-927m?DCMP=ILC-SEARCH](http://www.healthcarerepublic.com/search/news/935257/NHS-overpaid-independent-sector-treatment-centres-927m?DCMP=ILC-SEARCH)

<sup>37</sup> The Kings Fund (2009) *Ideas that change healthcare*. Available from: [www.kingsfund.org.uk/research/publications/briefings/independent\\_sector.html](http://www.kingsfund.org.uk/research/publications/briefings/independent_sector.html)

<sup>38</sup> Health Service Journal (2008) *ISTCs: where are all the patients?* Available from: [www.hsj.co.uk/istcs-where-are-all-the-patients?1846175.article](http://www.hsj.co.uk/istcs-where-are-all-the-patients?1846175.article)

<sup>39</sup> Health Service Journal (2008) *ISTCs: where are all the patients?* Available from: [www.hsj.co.uk/istcs-where-are-all-the-patients?1846175.article](http://www.hsj.co.uk/istcs-where-are-all-the-patients?1846175.article)

<sup>40</sup> BBC news (2007) *NHS sector deals scrapped*. Available from: <http://news.bbc.co.uk/1/hi/health/7096437.stm>

It's not known how well centres have performed in terms of quality; the Care Quality Commission could not assess ISTCs because of a lack of data. It is not clear why the contracts set by the DH did not include comparable data to the NHS in order to enable a like for like comparison. A programme of work under the Information Centre is addressing the need for consistent and comparable data from across the IS and NHS for both NHS funded care, and non-NHS funded care.<sup>41</sup>

Concerns were also raised about the quality of care.<sup>42</sup> There are also concerns that procedures may have needed to be revised more often than those procedures in NHS trusts.<sup>43</sup> Many ISTCs have used staff from overseas in order to avoid 'poaching' NHS staff, however many do have some NHS staff. In 2007, on average 25 per cent of staff in ISTCs were from the NHS, with one centre having 83 per cent of staff from the NHS.<sup>44</sup> There has been recent debate following work comparing revisions of hip replacements in an ISTC to the rate in the NHS.<sup>45</sup>

Contracts let under the first wave will end in 2010, and there are both advocates for continued use and those who question whether the NHS will need the capacity now that waiting times have fallen considerably and the 'hump' has been removed.<sup>46</sup>

It is also unclear how far a centrally tendered programme is needed in light of choice, which allows patients to choose from both IS and NHS providers for elective care and given that ISTCs have been in place for quite some time. Other IS providers operate without central ISTC style contracts under the choice programme. The DH set out in July 2009 its policy that there will no longer be a centrally tendered programme.<sup>47</sup>

Given that much of the detail about ISTCs is outside of the public domain (for example, performance reported to the DH is considered commercially sensitive) it's difficult to determine the impact of the programme. The Kings Fund note that whilst ISTCs did bring additional capacity this is relatively small, at less than two per cent of all NHS elective activity at the national level.<sup>48</sup> They also note that it's difficult to determine the dynamic impact via competition with local NHS providers.

<sup>41</sup> NHS IC Knowledge (2008) *Independent Sector Information Project*. Available from: [www.knowledge.ic.nhs.uk/ebulletins/isip/index.asp](http://www.knowledge.ic.nhs.uk/ebulletins/isip/index.asp)

<sup>42</sup> BBC news (2007) *NHS sector deals scrapped*. Available from: <http://news.bbc.co.uk/1/hi/health/7096437.stm>

<sup>43</sup> Times on line (2009) *NHS paying high price for bungled hip replacements at private centres*. Available from: [www.timesonline.co.uk/tol/life\\_and\\_style/health/article6843637.ece](http://www.timesonline.co.uk/tol/life_and_style/health/article6843637.ece)

<sup>44</sup> The Kings Fund (2009) *Independent sector treatment centres*. Available from: [www.kingsfund.org.uk/research/publications/briefings/independent\\_sector.html](http://www.kingsfund.org.uk/research/publications/briefings/independent_sector.html)

<sup>45</sup> Oussedik S and Haddad F (2009) Further doubts over the performance of treatment centres in providing elective orthopaedic surgery, *Journal of Bone and Joint Surgery* [Br] Vol 91-B, No 9

<sup>46</sup> Health Service Journal (2008) *ISTCs: Where are all the patients?* Available from: [www.hsj.co.uk/istcs-where-are-all-the-patients?1846175.article](http://www.hsj.co.uk/istcs-where-are-all-the-patients?1846175.article)

<sup>47</sup> Department of Health (2009) *Future of independent treatment centres*. Available from: [www.dh.gov.uk/en/News/Recentstories/DH\\_103470](http://www.dh.gov.uk/en/News/Recentstories/DH_103470)

<sup>48</sup> The Kings Fund (2009) *Independent sector treatment centres*. Available from: [www.kingsfund.org.uk/research/publications/briefings/independent\\_sector.html](http://www.kingsfund.org.uk/research/publications/briefings/independent_sector.html)

Key lessons from this programme include:

- centrally procured contracts may be cheaper than ad hoc purchasing, however the structure of the contracts can lead to payment when not all the capacity is actually used. The structure of contracts is therefore a crucial part of considering the overall value for money from use of the IS
- contracting should include comparable indicators on quality so that the IS and the NHS can be compared on a like for like basis
- delivery models should also be compared to the NHS to determine if they are innovative and if so, how best to import this back into the NHS.

We note in addition that there is now an integrated regulator of health and adult social care which covers both the NHS and IS and from 2010 all providers will have to meet the same standard of care.

## RCN members in the IS

A quarter of registrants on the NMC register work outside of the NHS. The RCN members' survey suggests 27 per cent of RCN members work outside of the NHS. This does not account for those who may hold second jobs within the IS.

## The future of the IS

It is difficult to be confident about the future direction of the IS in the current economic climate and political uncertainties. However, some broad indicators suggest that the IS role will increase. For example:

- patient entitlements. Gordon Brown, Prime Minister, has announced a number of patient entitlements including hospital treatment within 18 weeks, access to a cancer specialist within 2 weeks, and free health-checks on the NHS for people aged 40-74.<sup>49</sup> If treatment is not available within the NHS, the media has suggested it might be provided by the IS.<sup>50</sup> It is also unlikely that a policy of choice could be rolled back to limit choice of provider
- divestment of provider services in the community (Transforming Community Services). It has been reported in the media that the move to separate commissioning and provision in the community could lead to more tendering for services. Depending upon who is successful in bidding, this could lead to greater IS involvement in the community. This market could be worth up to £10bn a year<sup>51</sup>

<sup>49</sup> Labour (2009) *Building Britain's future*. Available from: [www.labour.org.uk/building\\_britains\\_future](http://www.labour.org.uk/building_britains_future)

<sup>50</sup> The Independent (2009) *Cancer patients to go private if treatment delayed on the NHS*. Available from: [www.independent.co.uk/life-style/health-and-families/health-news/cancer-patients-to-go-private-if-treatment-delayed-on-the-nhs-1722448.html](http://www.independent.co.uk/life-style/health-and-families/health-news/cancer-patients-to-go-private-if-treatment-delayed-on-the-nhs-1722448.html)

<sup>51</sup> Financial Times (2009) *Plans for larger private role in NHS*. Available from: [http://us.ft.com/ftgateway/superpage.ft?news\\_id=fto103020082303589389](http://us.ft.com/ftgateway/superpage.ft?news_id=fto103020082303589389)

- role of the IS in 'turnaround' circumstances. Under the policy of unsustainable providers, in the extreme management teams could be replaced with alternative managers. This could theoretically be IS
- cross border care. The degree to which patients will wish to travel to access care, and how often it will be paid for by the NHS, is unclear
- top ups. Although the number of patients is small, there is now explicit provision for patients to top up for those medicines which are considered cost ineffective.<sup>52</sup> There is a continuing debate on what should be available within the NHS and what is not affordable. This could mean a greater role for the IS to meet the demands of patients where certain goods and services are not available in the NHS
- the IS may also be particularly interested in providing NHS activity in the light of other trends affecting their business.<sup>53</sup> There are important interplays between IS income from both private medical insurance (PMI), self paying individuals, and the NHS. If income from PMI related activity and/or self pay falls (driven by the recession), then the NHS could be an important source of replacement revenue
- Social Care Green Paper. The Green Paper shaping the future of care together was published on 14th July 2009 and invites views on the principles for improving the delivery of care, and on a number of options for reform of the current funding system. If state funding reduces, this could further increase IS involvement in the delivery of social and domiciliary care. There is also ongoing policy work on the provision of free personal care in individuals homes, and perhaps the IS will provide some of this activity.

There is currently debate about the role of the IS, the 'preferred' provider status of the NHS, and the rules of competition<sup>54</sup> and it is likely to continue to be an area of controversy. There has also been the first tendering of an entire NHS hospital (Hinchingsbroke hospital) during October 2009.

The IS may also be a provider of services when the NHS needs to rapidly scale up services, for example this could potentially occur in response to major public health threats.

<sup>52</sup> Department of Health (2009) *Guidance on NHS patients who wish to pay for additional private care*. Available from: [www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_096428](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_096428)

<sup>53</sup> Health Service Journal (2009) *NHS offers private providers shelter in rough economic seas*. Available from: [www.hsj.co.uk/news/finance/nhs-offers-private-providers-shelter-in-rough-economic-seas/1979457.article](http://www.hsj.co.uk/news/finance/nhs-offers-private-providers-shelter-in-rough-economic-seas/1979457.article)

<sup>54</sup> Health Service Journal (2009) *Paul Corrigan: why Andy Burnham is wrong to rip up the NHS competition rule book*. Available from: [www.hsj.co.uk/comment/opinion/paul-corrigan-why-andy-burnham-is-wrong-to-rip-up-the-nhs-competition-rule-book/5007506.article](http://www.hsj.co.uk/comment/opinion/paul-corrigan-why-andy-burnham-is-wrong-to-rip-up-the-nhs-competition-rule-book/5007506.article) And Health Service Journal (2009) *Andy Burnham stands ground after taking fire in competition rules*. Available from: [www.hsj.co.uk/news/primary-care/commissioning/andy-burnham-stands-ground-after-taking-fire-on-competition-rules/5007833.article](http://www.hsj.co.uk/news/primary-care/commissioning/andy-burnham-stands-ground-after-taking-fire-on-competition-rules/5007833.article)

## Implications for nursing and patients

It is likely that there will be a greater role of the IS given the direction of travel of a number of policy initiatives. This has implications for nursing and for patients, including:

- greater diversity of providers in both primary and secondary care settings, and this may offer a range of employers for nurses to work for
- this may offer a range of roles and different pros and cons (e.g. pensions, terms and conditions etc)
- challenge to workforce planning as the number of providers increases
- greater diversity of providers for patients to choose from, this choice will need comparable information
- some patients may look to nurses to help them navigate and make choices.

## RCN view

The RCN supports nurses who work both within and outside of the NHS and is not against the IS on ideological grounds. The RCN supports those employers who meet the RCN's principles of:<sup>55</sup>

1. quality – which includes themes of safety, dignity and effectiveness
2. accountability – including transparency and trust
3. equality – which includes universality, equity and diversity
4. partnership – including representation and collaborative decision making.

Good employers who support their nursing staff are also likely to deliver high quality safe health and social care.

The RCN also recognises the role of the IS in commissioning. However, commissioning is essentially a clinical activity and therefore requires extensive clinical involvement and leadership. Whilst we acknowledge that there are important skills that external consultancies can bring to the commissioning process we would not support the whole scale outsourcing of commissioning to non NHS bodies.

<sup>55</sup> RCN (2008) *Principles to inform decision making: what do I need to know?* Available from: [www.rcn.org.uk/\\_\\_data/assets/pdf\\_file/0009/78696/003034.pdf](http://www.rcn.org.uk/__data/assets/pdf_file/0009/78696/003034.pdf)

## Tell us what you think

This briefing is intended as a backgrounder on the IS in England and the Policy Unit would like to receive comments/feedback from as many members as possible on this important issue - [policycontacts@rcn.org.uk](mailto:policycontacts@rcn.org.uk).

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## Appendix 1: Largest 10 IS providers to the NHS

Largest 10 independent sector providers, by value, of services under the nationally procured independent sector treatment centre (ISTC) programme and the extended choice network (ECN) in 2007-08 are:

<i>£ rank</i>	<i>Independent sector provider</i>	Patient throughput
1	Care UK	170,864
2	Ramsay Health Care UK	19,828
3	Interhealth Care Services	7,831
4	UK Specialist Hospitals	9,782
5	Nations Health care	35,498
6	Netcare UK	7,882
7	Spire Health care	33,507
8	Alliance Medical	80,368
9	Nuffield Hospitals	1,988
10	The Horder Centre	486

*Note:*  
Patient throughput includes procedures, diagnostic assessments and episodes of primary care but not out-patient assessment appointments for elective procedures through ISTCs and the IS ECN.

Source: Response to PQ from John Mann, 9 October 2008

## Additional resources

NHS Evidence (2009) *Independent sector providers (primary care)*. Available from:

[www.library.nhs.uk/healthmanagement/ViewResource.aspx?resID=251437](http://www.library.nhs.uk/healthmanagement/ViewResource.aspx?resID=251437)

Independent Health care Advisory Services. Available from:

[www.independenthealthcare.org.uk/](http://www.independenthealthcare.org.uk/)

Browne J, Jamieson L, Lewsey J, van der Meulen J, Copley L and Black N (2008). *BMC Health Services Research. Case-mix & patients' reports of outcome in Independent Sector Treatment Centres: Comparison with NHS providers*. Available from: [www.biomedcentral.com/1472-6963/8/78](http://www.biomedcentral.com/1472-6963/8/78)

Care Quality Commission (2008). *Independent Sector Treatment Centres: The evidence so far*. London: Commission for Health care Audit and Inspection. Available from: [www.cqc.org.uk/](http://www.cqc.org.uk/)

Health care Commission (2007). *Independent Sector Treatment Centres: A review of the quality of care*. London: Commission for Health care Audit and Inspection. Available from: [www.cqc.org.uk/](http://www.cqc.org.uk/)

House of Commons Health Committee (2006a). *Independent Sector Treatment Centres. Fourth Report of Session 2005-06. Volume I. HC 934-I*. London: The Stationery Office.

House of Commons Health Committee (2006b). *Independent Sector Treatment Centres. Fourth Report of Session 2005-06. Volume III. HC 934-III*. London: The Stationery Office.

NHS Information Centre for health and social care (2008). *Data Quality Report for Independent Sector NHS funded treatment Q1 2008/09*.

Available from:

[www.ic.nhs.uk/webfiles/Key%208/IS%20information/0810\\_The%20NHS%20IC\\_Data%20Quality%20Report%20for%20Independent%20Sector%20NHS%20Funded%20Care%20Q1%202008-09.pdf](http://www.ic.nhs.uk/webfiles/Key%208/IS%20information/0810_The%20NHS%20IC_Data%20Quality%20Report%20for%20Independent%20Sector%20NHS%20Funded%20Care%20Q1%202008-09.pdf)