

Patients and doctors: rights and responsibilities in the NHS (1)

Ian Reckless

ABSTRACT – Whilst patients and doctors each bring a collection of rights and responsibilities with them into the consulting room, these parties must not be seen in isolation. The government of the day and its representatives have an absolute right to influence the future direction of the health service but they also have very grave responsibilities.

KEY WORDS: business, government, healthcare, NHS, public, quality, regulation, responsibilities, rights, value for money

The NHS has always been dear to the British people but the role that it plays in our lives has naturally evolved over time. At the inception of the NHS, the individual looked to the novel service to go some way towards meeting his/her health-related hopes and aspirations. Initially, there was little in the way of expectation. What was dispensed by the NHS to a naïve public was gratefully received, almost irrespective of quality, as it was likely an improvement on what came before. An injured nation, fatigued by years of war, was able to use the NHS as glue with which to rebuild cohesive communities.

Nowadays, the landscape is a very different one. An equally significant war has since been won, that of the capitalist democracy over its rivals. It is now understood by all that a system in which purchasers and providers of goods are free to enter into a mutual and transparent agreement has the ability to drive up quality and indeed constrain cost. While this war may have been won, skirmishes continue at the periphery, gradually defining the edges of this landscape. One such skirmish concerns the future of the public services.

Where an agreement is in place to provide and receive services in exchange for some other commodity, a set of rights and responsibilities follows. The customer has the right to expect to receive goods of acceptable quality in a timely fashion, and the responsibility of paying the provider the predetermined price over the agreed period. Providers have the right to expect financial recompense for their efforts and the responsibility to meet the specifications outlined by the customer at the time of the agreement.

From time to time, the language of business seeps into medicine and words such as ‘client’ and ‘provider’, usually whispered, can be heard. The reaction of the medical fraternity to these words is almost invariably negative. There remains a deeply held conviction that the language of commerce is not an appropriate one with which to frame the highly personal interaction that occurs in private between a doctor and his/her patient. There is, however, another objection to the use of this language which is far more fundamental. The words ‘client’ and ‘provider’ grow from the assumption that a mutual and transparent agreement exists along with the set of rights and responsibilities which such an agreement enshrines. In public sector healthcare, any contractual agreement between doctor and patient seems very abstract. Furthermore, neither party is likely to have a real understanding of the financial value of the commodity that is about to change hands. Indeed, it may be that neither party cares.

If the concept of a client–provider relationship is not meaningful for the doctor and patient, then neither perhaps are the rights and responsibilities integral to such a relationship. Imagine a focus group of doctors and their patients, armed with a flip chart, attempting to clarify their rights and responsibilities. It is likely that the two-by-two box-chart which they produce will have some corners which are significantly heavier than others. Picture the scene: the rights of the patient would be solidly defined and the responsibilities of the doctor would seem onerous.

Key Points

Ensuring value for money is key to the future viability of publicly funded healthcare

Stakeholders in healthcare are large in number and extend beyond the patient and the doctor

It is right that governments should influence the development of publicly funded healthcare

However, the NHS must not be used by governments as a political football as public funds must be spent wisely

Proper management ought to facilitate the delivery of good clinical care and nothing more

Ian Reckless BSc
MBBS MRCP(UK),
Specialist Registrar
in General
(Internal) Medicine,
Oxford Deanery,
Oxford

This paper won the
Teale Essay Prize
for trainees, 2005.

Clin Med
2005;5:499–500

The opposite boxes would be challenging to fill in and notable largely for their emptiness. Herein lies what some clinicians might see as a cancer gnawing away at the NHS, fed by a cynical media: the overriding rights of the individual patient on the one hand and the expectation of the near perfection of the doctor on the other. In a complaint culture, the patient has many allies in any battle against the doctor. The doctor, however, has few weapons to counter such an onslaught. So then, is it not possible to attribute rights and responsibilities to the two parties interacting in the consulting room? Are public services compatible with this brave new world in which the capitalist democracy reigns?

Happily, it is possible to see through this fog. To do so, it must first be remembered that few business transactions occur between two individuals in isolation. There are a large number of other interested parties, from the taxman in Whitehall to the credit card company top-slicing the purchase price to the marketing organisation paying for the intimate details of the very transaction. So it is also in the NHS. When a patient consults a doctor, there are other parties, while perhaps not in the consulting room, likely listening at the door. Only when the presence and role of these other parties is acknowledged can the rights and responsibilities held be distributed appropriately. The other key players in this highly personal doctor–patient transaction are the taxpayers, the government that these taxpayers choose to represent them, and the newspapers that these taxpayers choose to buy.

It is these other players who will ultimately serve to fill the remainder of the flip chart. It is the government through its many agencies, ultimately on behalf of and accountable to the people, that has the levers at hand to award rights to doctors and enforce responsibilities on patients. This process is doubtless underway.

The pace and direction may not necessarily be to the liking of the profession but the framework is perhaps reassuring. Arguments may currently be overstated and causes over-egged in the process of negotiation but eventually things will settle into place. Healthcare needs management and regulation of some form in order to improve quality and also to assure minimum standards. Good management leads to a system which facilitates the delivery of good clinical care and nothing more. It is of course challenging for the doctor to see the government and press as protectors of the profession. But doctors, like the rest of society, have needed to travel a great distance over the last 50 years. Blind paternalism is now dead. In future, the role of the doctor will be to assist patients in managing information before agreeing and executing a plan of action in partnership. Governments will have views on the way forward, which will then be critiqued by the press. Doctors will continue to lobby powerfully. The taxpayer, as always, will have the final say. The main focus of the NHS will quite rightly become value for money.

There are but two caveats. The first is that democratically installed governments also recognise their responsibilities alongside their absolute right to govern. The key responsibility is that they ought to concern themselves primarily with strategy when it comes to the public services, leaving operations in the hands of the ‘arms-length’ agencies and professionals. Secondly, we must hope that governments are indeed truly accountable to the people – but apparently that war has already been won.