The WHISTLE . . 3

November 1993

CONCESSIONS OR CONTAINMENT?

'Open Government' and the DoH 'Guidance'

Instead of enacting a Bill of Rights and passing a Freedom of Information Act to give a clear cultural lead the Government is multiplying unenforceable charters, guidance and codes. This is rather like treating cancer with aspirin.

The White Paper on Open Government (Cm2290 of 15th July 1993) and the Department of Health's Guidance for Staff on Relations with the Public and the Media are the latest half-hearted measures which are meant to appear as concessions to civil liberties while actually serving to contain the ground swell of demands for openness and freedom of speech. Public employees afraid to speak out in the public interest, gagged and victimised, will hardly be reassured.

The White Paper proposals include:

1) The introduction of a statutory right for people to see the information that government holds on them
2) A statutory right of access to health and safety information
3) The introduction of a new Code of Practice on access to information held by central government and public bodies
4) Consultation on the introduction of similar Codes for local authorities and the NHS
5) A role for the Parliamentary Ombudsman in investigating complaints that Departments have not complied with the Code
6) The selective introduction of 'harm tests' into the criminal provisions on unauthorised disclosure of information, and
7) A major reduction in the number of public records withheld from release beyond thirty years.

The first two proposals may be seen as piecemeal containment of the panoply of rights which would have been introduced if the Right to Know Bill of Mark Fisher MP had succeeded. The Bill, similar to that which other countries already have, was killed off in the Commons on 2nd July. The Government also blocked the Medicines Information Bill.

The first proposal does not in any case allow access to original documents but only the release of selected and possibly laundered information under very restrictive 'exemptions'. The Code is voluntary and offers no right of access, and worst of all 'access' here only means that the Government undertakes to answer questions not to release documents such as correspondence and reports. Why should anyone believe what a Government official says?

An authority which refuses to disclose information of importance to a member of the public (e.g. a whistleblower) on anything except safety in the narrow sense cannot be legally compelled to do so. Thus information on the NHS, community care, education, road building, to give a few examples, is still effectively closed to us. We can complain to the Ombudsman but even he or she cannot enforce disclosure.

The DoH 'Guidance' adopts a similar approach. Before the details of the 'Guidance' are considered by NHS employees they should be asking themselves a more fundamental question: why should professional health carers, who have standards of their own, be subject to such guidance? Why do they need to be told by Government what they can and cannot say and who they can say it to? Professionals did not need this guidance in 1963 or 1973 - why now in 1993? What is the Government afraid of? The guidance does not enhance employees rights. At the very best it only reinforces the status quo, and at the worst it intimidates and silences. Thus the guidance makes no provision for independent

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FREEDOM TO CARE is a non-party political network of doctors, nurses, social workers, lawyers, academics, scientists and others working in the public services.

It supports employees who have been victimised for raising matters of public concern. It campaigns for appropriate changes in the law, administrative procedures and managerial culture to allow professionals the freedom to raise concerns about standards without fear of reprisals.

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appeal and arbitration, and even the final stage of internal appeal is quite inadequate. Most sinister of all, as the union MSF has warned, it 'seeks to interfere improperly with the right of staff to communicate with their Member of Parliament'.

Section 27 of the guidance reads: 'An employee who has exhausted all the locally established procedures, including reference to the Chairman of the employing body, and who has taken account of advice which may be given, might wish to consult his or her Member of Parliament in confidence. He or she might also, as a last resort, contemplate the possibility of disclosing his or her concern to the media. Such action, if entered into unjustifiably, could result in disciplinary action and might unreasonably undermine public confidence in the Service.'

In fact, citizens have the right to speak to their MPs and their local councillors at any time about any matter. It is disturbing that a major Government Department should overlook the long standing democratic principle of parliamentary privilege.

This section gives encouragement to employers to warn or discipline staff who go to their MP when, in the opinion of the employer, internal channels have not been exhausted. But as Tony Benn MP pointed out at the launch of Freedom to Care last year: 'Ministers of the Crown, employers in both the private and the public sector ought now to be warned that any attempt to discipline staff who decide to petition the House of Commons to draw attention to defects in the companies or services in which they work is illegal.' Petitions, which must take a set form, can be presented to one's MP, and recorded in the House of Common's proceedings so that they will be protected by law.

The 'Guidance' as might be expected, tells us a great deal about what behaviour employers should expect from their employees. It does not tell us so much about what behaviour employees should expect from employers. Thus employers can if they wish insert gagging clauses in employment contracts. They can if they wish unfairly dismiss a conscientious employee and just before the industrial tribunal settle for a large sum of money at taxpayers' expense on condition that the now out-of-work and exhausted whistleblower sign another gagging contract so that the public will never know what really happened.

The guidance tells employees that there is an 'implied duty of confidentiality and fidelity' to the employer, but no mention of any reciprocal duty on the part of the employer. Indeed, a fundamental assumption is that it is not incompetent or high-handed management, cutbacks and inefficient administration that damages working relationships and undermines decent public services but the evil temptation of employees to speak to their MP or local newspaper.

One thing is more worrying than the issuance of such guidance to tens of thousands of employees in a public service which touches on the lives of all of us, and usually when we are at our most vulnerable. And that is that, while it is accepted without hesitation by so many, those who do not accept it argue about its sections and clauses rather than its entire rationale. It should have been rejected by all professional bodies and health service user groups as inappropriate Government interference. It is not ordinarily the business of any government to tell people when they can and cannot speak.

[NOTE: The MSF's Freedom of Speech in the NHS (July 93) costs £3, Park House, 64-66 Wandsworth Common N. Side, SW18 2SH. Tel 081-871 2100]

BLOWING THE WHISTLE IS BAD FOR YOUR HEALTH
(but so is not blowing the whistle)

Geoff Hunt

A survey of 35 whistleblowers in Australia who had exposed corruption or danger to the public revealed, as might be expected, that they had all suffered "adverse consequences".

A British Medical Journal report on the survey reports:

"For 29 victimisation had started immediately after their first, internal, complaint. Only 17 approached the media. Victimisation at work was extensive: dismissal (eight subjects), demotion (10), and resignation or early retirement because of ill health related to victimisation (10) were common. Only ten had a full time job. Long term relationships broke up in seven cases, and 60 of the 77 children of 30 subjects were adversely affected. Twenty nine subjects had a mean of 5.3 stress related symptoms initially, with a mean of 3.6 still present. Fifteen were prescribed long term treatment with drugs which they had not been prescribed before. Seventeen had considered suicide. Income had been reduced by three quarters or more for 14 subjects. Total financial loss was estimated in hundreds of thousands of Australian dollars in 17 cases. Whistleblowers received little or no help from statutory authorities and only a modest amount from workmates. In most cases the corruption and malpractice continued unchanged. Conclusion: Although whistleblowing is important in protecting society, the typical organisational response causes severe and long lasting health, financial, and personal problems for whistleblowers and their families." (K Jean Lennane '"Whistleblowing": A Health Issue' BMJ Vol. 307, 11 Sep 93, 667-70)

The questionnaire survey was carried out among whistleblowers who contacted Whistleblowers Australia (founded July 1991), an organisation very similar to Freedom to Care. The account of the methods employed by conscientious employees to have their complaints addressed, and their consequent experiences, tally closely with the experiences of whistleblowers in touch with FTC. (A similar survey has already been conducted in the UK by Geoff Hunt and Barbara Shailer and the results will be published later this year.) The Australian report says,

"All subjects had started by making a complaint internally, through what they considered were the proper channels. Three had not made a complaint but submitted a report during the normal course of their duties. Three subjects had not progressed beyond making an internal complaint. The remaining 32 had subsequently complained to some official external body - for example, ombudsmen, members of parliament, their union, the Independent Commission Against Corruption, the auditor general ... Only 17 subjects had approached the media and then only after exhausting internal and external avenues.

"Fifty external bodies were mentioned, covering several states, so the numbers for each were small. Only three were rated as helpful by more than one person. Unions scored two helpful ratings but also six harmful, seven neither helpful nor harmful, and one hopeless. Only six bodies scored any helpful mentions, while there were 22 harmful and 51 neither helpful nor harmful mentions.

"The problem complained of continued unchanged or increased in 25 cases, decreased in four, and was unknown in the remaining six. No action had been taken against those responsible or they had been promoted in 30 cases, and in five cases those responsible had received minor disciplinary action. In only one case were all those responsible disciplined and none promoted."

The report remarks on the close similarities in the kind of treatment the institution meted out to the complainants. Any UK whistleblower who reads this report may experience that mixed feeling of dismay at so much suffering like their own and relief that they are not all alone after all. The Report states at one point, "Some techniques, such as putting the whistleblower in a bare office with no telephone, seem also diagnostic." In the UK whistleblowers Mike Cohen and Colwyn Williamson at University College Swansea were punished for their disapproval of academic malpractice by being moved out of their Philosophy Department offices into shabby rooms in the Maintenance Department without telephones.

The report closes with advice for doctors caring for whistleblowers. This is good advice, but something about the entire approach adopted in the report makes me uncomfortable. The basic message which this study appears to be giving to conscientious employees, whatever the intention, is this: if you are thinking of making a complaint, however legitimate, however appalling the situation you wish to complain about, then you must expect to be made

sick, sacked, financially ruined and at the end of the day your complaint will almost certainly not have been addressed.

But who has done a study to determine the effects of not blowing the whistle? How many millions of employees work in a climate of frustration and fear, undervalued, not listened to, and expected to acquiesce in corruption, waste, negligence and managerial high-handedness? What effect does that have on one's health? What effect does that have on one's self-esteem, on the meaning one finds in work, and on the service clients receive? What effect does that have, multiplied a millionfold, on our chances of dealing with a human future of mindless corporations, polluted seas, global warming, a hole in the ozone layer, deforestation, destructive transport policies, nuclear waste and trafficking in human organs?

Whistleblowing may make you sick, but if no one ever blows the whistle we will all of us in the long term be very very sick indeed.

The more whistleblowers there are, and the more they are supported and listened to, the less likely they and the rest of us have of being made sick in body and mind.

HOW A HEALTH AUTHORITY SETTLES

Kenneth MacDonald

(The Whistle No. 2 reported McDonald's case. He was dismissed as a nursing student, following his complaints about what he regarded as inadequate resuscitation policies in two Liverpool hospitals. Here he speaks for himself. A report in the British Medical Journal throws a lot of light on McDonald's claims: Aarons E J & Beeching N J 'Survey of "Do Not Resuscitate Orders" in a District General Hospital' BMJ [1991] 303: 6816 pp. 1504-06. McDonald urges nurses to read it.)

The scheduled industrial tribunal and possible civil court action between myself and what was South Sefton Health Authority has been settled beforehand for a sum of £9,000. I signed the document on 2nd September 1993.

The respondents made two 'without prejudice' offers before this. The first (11th June) was an offer of £3,000. This came with the statement, 'This without prejudice offer is made strictly on the basis of economic reasons and our clients have no doubt that they would succeed in a forthcoming industrial tribunal.' This statement incensed me. I felt I was being intimidated and, even though I was given legal advice to accept I refused the offer outright.

Next an offer of £4,000 was made (20th July), this time with the statement, 'Whilst my clients are confident of succeeding in the industrial tribunal, they are trying their very best to come to some amicable agreement with yourself.' I flatly rejected the offer.

Freedom to Care then put me onto the Free Representation Unit and they put a barrister on my case free of charge. On 26th August 1993 I was scheduled for a pre-hearing discussion about my case before the Chairman of the industrial tribunals in Liverpool. Before we went in the respondent's solicitor made an offer of £6,000 and I was heavily advised by my barrister to accept it. However, he then pointed out that I could pursue my case to the civil court, and then the offer was raised to £9,000.

The barrister assured me that anyone would now regard my settlement as a victory. However, the victory I would like to see is to get back into student nursing (if any reader in nurse education has an offer to make please contact me).

Now that my case has been settled I hope people will ask my employers to explain the dirty tricks they played on me following my complaints about hospital resuscitation procedures in Aintree hospitals. To give just a few examples of these:

1) I was removed from my third ward in humiliating fashion. I was not officially suspended, but had no ward placements for seven days although I was fit.

2) On my next ward I was suspended from duty without explanation. I complained to my MP, David Alton. I wrote to my employers asking for a reason, but it was six months before they gave me one.

3) While I was off ill the Chairman of the H.A. wrote to David Alton with certain falsehoods about me, and which greatly disturbed me. Comments in the letter were later retracted.

4) Even though I was originally accepted as a Project 2000 student and had been moved onto an RGN course for an 'early start' the principal of my school told me I had to reapply for Project 2000 admission. I did this, and was then told I had been rejected.

Would anyone among my employers like to offer an explanation?

PUBLIC CONCERN AT WORK

'Public Concern at Work' is now offering free legal advice to people with serious concerns about malpractice at work. It works to encourage receptive management, one which does not deter employees from sounding the alarm.

Its remit extends to serious breaches of the law and issues of the public interest. Contact PCAW, Lincoln's Inn House, 42 Kingsway, London WC2B 6EN (071-404 6609).

FORCED TO BREAK THE LAW?

SOME QUESTIONS FROM RON THOMSON

(Thomson felt forced to resign as manager of a charity running care homes - See The Whistle No. 2)

Is it acceptable for an employer to expect employees to do something they consider to be unprofessional, bad practice, immoral or illegal?

The law is, in practice at least, rather unclear about it. Industrial tribunals have, in the past, often looked solely at aspects of employment law. They have ignored other issues such as professional body regulations and codes of practice. They have even disregarded actions the employee has had to take (e.g. resignation) to protect themselves from potential prosecution in the courts.

There have been a number of cases of apparent injustice at industrial tribunals arising where employees have taken the step of refusing to comply with instructions which they considered to be wrong, or even illegal. However, many of these people were not supported by tribunal decisions because they had on previous occasions carried out those same instructions. It seems that if you carry out an employer's instruction once you are almost legally bound to continue doing it for ever - even if you only become aware of the fact it is illegal or bad practice later.

As the media, professional and educational bodies are now discussing more openly the subject of ethics in practice employees are becoming aware of issues of concern which they may have previously just accepted as 'the way things are done'. This should be welcomed by all who are concerned about professional practices and want to see higher standards in the caring sector particularly when dealing with vulnerable people. However, it brings with it new risks for a large number of people who have been forced or encouraged into rethinking their positions, for example, after a training course. Where do they turn for support?

Clearly they can start to raise the issue internally in their own organisation, but many managers are not happy to change working practices that easily. Raising the issue formally means 'rocking the boat' whilst keeping quiet and doing nothing might mean compromising your legal position if the situation ends up in an industrial tribunal.

Professional bodies will now provide guidance, advice and more support - if your local officer does not seem to understand the issue then contact the main office. Freedom to Care is a growing network of conscientious people in the public services - many of whom have gone through similar problems and can offer support.

Still, I believe that the Employment Protection Acts should be clarified to state that employers have a legal duty to protect the employee from any acts that would put that person's job, reputation or professional standards at risk. I would also expect it to state very clearly that no employer should ever give any instruction which could result in any employee being put at risk of prosecution or damage to professional status (e.g. being struck off a professional register).

A binding Code of Practice from the Advisory Conciliation & Arbitration Service (ACAS) would then clearly spell out the issues very including for example references to other professional bodies' codes of practice and regulations. The latter codes could then be more easily updated in light of higher professional standards and not require new legislation each time.

SOME COMMENTS FROM GUY DEHN (Mr Dehn is a barrister & Director of a new charity, 'Public Concern at Work'.)

Ron Thomson is to be thanked for raising three important points.

1) Whose Law? Who is the judge of the legality or propriety of the employer's instruction? The employee's view is not the final word. Nor is the employer's - in law it is the court's. But in practice and because of the relatively weak position of the employee, he or she will often feel they have to approach an employer's dubious instruction in a 'take it or leave it' way. This is why getting a second opinion about the propriety of the action before disputing it is a good idea. This can be from friends, colleagues, union/professional officials or groups like Freedom to care or Public concern at Work.

2) Changing Practices: Different issues can arise when an employee discovers that what he or she has been doing at work may have been unlawful. Even though employers cannot instruct their employees to break the law, such an order doesn't make an unfair dismissal unfair if the tribunal decides other issues were dictating events. But if the employee goes about things carefully, it need not end in an industrial tribunal and their personal and professional position will come through unscathed. Best of all, the practice can be stopped.

3) Where Now? I don't have the faith that Ron has in Codes of Practice,

although they may help get the issue raised. The key is that employers are not allowed to instruct their employees to carry out unlawful acts. This rule is central to the employment contract, but because industrial tribunals apply a different (statutory regime) they have at times forgotten this fundamental point. One goal 'Public Concern at Work' has set itself is to ensure that the law on unfair dismissal takes this point fully on board.

AFTER SWANSEA, WHAT NEXT? SIR MICHAEL DAVIES' REPORT

The University College of Swansea whistleblowers have been completely vindicated by the Report (May 93) of Sir Michael Davies, a former High Court judge. This follows on earlier vindication by an inquiry headed by Sir Peter Swinnerton-Dyer.

Michael Cohen and Colwyn Williamson have had their two year suspension terminated and Anne Maclean, who had reluctantly settled by signing a gagging contract of 'voluntary redundancy', has been reinstated. The criticised Centre for Philosophy & Health Care has been moved out of the Philosophy Department, the Head of Philosophy has taken a post in the United States and the Principal of the College will soon step down. Approval for the deficient Masters degree programme was withdrawn and a fresh submission had to be made. A student was stripped of his degree because he had copied his dissertation from published works. The Centre's director, who disregarded basic University regulations and who had been given ample warning of the copying but failed to act, is currently still in post. Dr Donald Evans is reaching retirement age.

The first document critical of the Centre, written by Geoff Hunt and Anne Maclean and submitted for departmental discussion was, says Sir Michael, "critical in tone, but in my view not inordinately so, and it did contain many constructive suggestions. There was little criticism of individuals..." The Head disallowed departmental discussion but "it is possible if not probable that a more liberal approach would have had a soothing effect and avoided escalation of a domestic dispute into a public battle" (87).

In the battle Maclean lost her livelihood. She signed a severance agreement which bound her 'not to comment on or publish comment or criticise the College, the Centre, the University of Wales and/or its officers, servants or agents, whether publicly or privately .. [and] .. to keep the terms of this agreement and its antecedent exchange of letters confidential.' Sir Michael says of this, "In other words, a complete gag. One wonders if that could be enforced in a Court of law; and in any case if it was a proper stipulation for an academic institution to insist upon..." (94)

The College had gone on the offensive instead of dealing with the complaints. It had set up a judiciary committee, chaired by Professor H. Calvert, to investigate the Departmental Head's counter-allegations before the complainants' allegations were heard. Sir Michael says of the committee's report "The language used in the report about Mr Williamson was quite remarkable for what was or should have been a calm, considered and rational document ... The committee had only heard (as distinct from read) one side of the story, and this sort of abuse does not in my opinion help the reader of the report to assess favourably the findings of the committee. I deplore it." (61)

As the battled raged on the Principal of the College was quoted in the 'Times Higher Education Supplement' (14 June 1991) as saying, 'If this had happened in a company, and I had been managing director, those people [the whistleblowers] would have been up the road the moment they kicked up the fuss they did. They would have taken us to an industrial tribunal, but they would have been off the payroll'. Sir Michael observes: "... neither the University of Wales nor the University College of Swansea is 'a company' in the profit-making or any other sense. They are academic institutions. I believe that this has not always been remembered in Swansea."

The Swansea affair has highlighted deficiencies in the accountability of institutions of higher education, and there is a pressing need for a national forum to open up the issue. Dr Bill Mallinson, former lecturer at Bournemouth University, and now out of work after blowing the whistle on fraud is still suffering from these deficiencies (See 'The Whistle' No. 2).

Mallinson's case is similar to Maclean's. He signed the kind of gagging contract so roundly condemned by Sir Michael. Now Mallinson wishes to make further complaints, but the University says he "has no entitlement to pursue a complaint under any University recognised procedures."

Don Foster MP for Bath and Liberal Democrat spokesperson on education, is showing an interest in the case, following an approach from FTC. The Swansea whistleblowers have written to John Patten, Secretary of State for Education, asking for an inquiry. FTC has followed suit, and a petition to Mr Patten is being organised.

PETITION

'Whistle' readers are urged to write now to John Patten at the House of Commons, Westminster, London SW1A 0AA, asking for an independent inquiry.

GRAHAM PINK - A VICTORY FOR NURSES, SAYS QC

John Hendy QC made the following statement to an industrial tribunal on behalf of Graham Pink, the Stockport nurse sacked following his complaints about inadequate care:

"By submitting to an Order that Graham Pink was unfairly dismissed the Stockport Health Authority have conceded the point at issue in this case and the Tribunal will make its order that Mr Pink was unfairly dismissed in accordance with his claim lodged with the Tribunal on 11th December 1991. The H.A. imply that the reason is that the costs of further hearing or unacceptable. It is a matter of very great regret to Mr Pink that this concession could not have been made months ago before they had spent tens of thousands of pounds of taxpayers' money in attempting to defend the indefensible. When at the opening of the case on 15th March the H.A. offered in open correspondence to pay Mr Pink £16,336 and a contribution to his costs if he would drop the case, it was made clear to the H.A. that money was not the issue. Mr Pink sought admission of the fact that he had been unfairly dismissed. The H.A. refused then to concede that fact and went on to spend two weeks fighting a hopeless case.

In those two weeks one witness was called on behalf of the H.A. The cross examination of this witness made clear how unfair was Mr Pink's dismissal. The cross examination showed that in August 1989 Mr Pink, a night nurse on the geriatric wards of Stepping Hill Hospital, wrote the first of a series of lengthy and articulate letters to the hospital authorities setting out his experience of the shortage of nurses there that was affecting patient care. The evidence revealed that in October 1989 an investigation was called for but no one was asked to carry it out until February 1990. A report was made in May 1990 and a further report in August 1990. Had the H.A. not evaded today's hearing by admitting unfair dismissal, the person who made those reports was the next witness to be cross examined about the deficiencies in those investigations which led her apparently to the complacent conclusion that staffing levels were 'adequate'.

The evidence revealed by cross examination in the first two weeks of the Tribunal showed that the alleged main ground for Mr Pink's dismissal was that he was responsible for an article in the local paper in July 1990 highlighting lack of staffing. This, it was alleged, constituted breach of patient confidentiality. But the evidence showed that by then nothing had been done about staffing levels and the investigations into it were kept secret from Mr Pink. By then he had pursued every other possible avenue open to him including writing to every level of management right up to the Secretary of State for Health. He was not favoured with any positive response. More significantly it was admitted in cross examination by the H.A. witness that Mr Pink was responsible for the publication of similar material highlighting lack of nurses in the Guardian on 11th April 1990 and the Nursing Times on 27th June 1990. In neither case had the H.A. suggested that these publications might have constituted a disciplinary offence by Mr Pink, still less was any mention made of 'breach of patient confidentiality'.

It is plain that the real reason Mr Pink was sacked was because, having failed to remedy the matter internally, he complained publicly about lack of nurses. Criticism is something the H.A. was not prepared to tolerate. So it sacked him. Now, as Mr Pink sees it, to avoid further damaging cross examination it has conceded unfair dismissal.

The H.A. protest that their admission of unfair dismissal is on the grounds of a 'technical flaw in procedure', but which of the myriad flaws in procedure revealed by their own witness has not been made clear. What is clear though is that by admitting procedural unfairness, the unfairness of sacking Mr Pink on a trumped-up charge for blowing the whistle is made yet more culpable: they have simply rubbed salt in the wound.

The H.A., in conceding the maximum possible award (£11,188), has thereby conceded that no reduction should be made to reflect any blameworthiness on the part of Mr Pink. It could do nothing else.

As stated, Mr Pink refused the offers of large sums of money. Now he has his vindication in the admission of unfair dismissal. He could have pursued reinstatement today. Last week he asked if the H.A. would undertake to provide one more nurse on each night shift (the salaries for which could have been paid for several years from the monies already spent by the H.A. in defending these proceedings). The H.A. declined to give that undertaking. In those circumstances Mr Pink has, on reflection, decided that though he would have been prepared to put behind him the unfairness of the H.A.'s dismissal of him, he is unable to bring himself to return to work for a H.A. who, after all that has occurred, persist in publicly maintaining that nurse staffing levels are adequate. In short he has lost all confidence in the Stockport H.A. He would not wish the Tribunal to reinstate him there.

This case has vindicated nurses who, after taking up internally

failures to provide adequate patient care, raise such issues publicly. The evidence confirmed that the standard form H.A. contract of employment with Mr Pink incorporated the U.K. Central Council of Nursing standards. These make clear that nurses (who have their own professional autonomy) in the last resort must each decide when the public interest requires that they speak out: it is a matter for them and they cannot be gagged by their employers. This case is a victory for nurses and for patient care. Again, on behalf of Mr Pink, I say it is regrettable that so much public money has been spent defending the indefensible." (Lincoln's Inn, London, June 1993.)

THE PRICE OF TRUTH

by Graham Pink

'Hypocrisy', according to Somerset Maughan, 'is the most difficult and nerve-racking vice that any man can pursue; it needs an unceasing vigilance and a rare detachment of spirit. It cannot, like adultery or gluttony, practised at spare moments; it is a whole time job.' Reading some of Stockport Health Authority's recent outpourings, they appear to have brought the art to a new zenith (although in view of the associated fraud and flight from justice, 'nadir' might be a better choice of word).

On June 14th the Authority decided to abandon its futile defence of my dismissal, and admitted it was unfair. In the words of my counsel, John Hendy QC, 'Criticism is something the Health Authority was not prepared to tolerate. So it sacked Mr Pink. Tens of thousands of pounds of taxpayers' money has been spent in attempting to defend the indefensible.' My wish was to continue the tribunal, and I did all I could to see that this happened for the sake of openness, honesty and above all justice and truth. However the stratagem of withdrawal was a most cynical ploy, but one of many, to avoid the truth emerging and to protect management from further damaging revelations. Clearly the Authority was prepared to move heaven and earth to prevent the malpractice, deceit and gross unprofessional behaviour of managers from being further driven home and thus exposed to the attention and opprobrium they so rightly deserve.

One can take with a packet of salt the Press Release put out by the Authority. To continue the tribunal, it stated, 'would have cost us an extra £250,000 which could only have been diverted directly from money earmarked for care of patients.' Such cloying hypocrisy insults all decent, right-minded people, and in particular those patients, relatives and nursing staff concerned with my attempt to improve night nursing levels for Stepping Hill Hospital's geriatric patients. The fact that as much as half-a-million pounds of public money has already been misappropriated exposes the disgrace and obliquity of these managers far more eloquently than can any words of mine.

No hint of regret is to be found in the Authority's statement - not so much for the revengeful manner in which I have been treated for having the audacity to speak the truth, but for the patients and relatives who have suffered directly, and the people of Stockport whose health care funds have been so wantonly and selfishly squandered. Arrogance, infelicity and gracelessness leap out from every line. One looks in vain for a trace of humility, regret or apology. How very sad that not one manager or Authority member seems able to put up a hand and say: 'I'm sorry; we got it wrong.' Instead cynicism, bluster and evasion reign.

We read of 'Mr Pinks' florid allegations against the Authority and fellow members of staff...' Totally untrue. I have never uttered a word about my ex-colleagues other than to praise their magnificent and truly devoted work for the benighted and dying patients of Stepping Hill. Were I to fall sick, I would wish to be cared for by staff with similar skill and commitment. The Authority vice chair is quoted as saying: 'Mr Pink's campaign of denigration of his former colleagues...' What denigration? She goes on to state that Mr Pink's view of the staffing on the wards was 'his alone'. Another blatant falsehood. The Chairman and Chief Executive have joined in the slander. How can people in public life speak such manifest lies? What possible gain can there be for them, for the hospital or its staff to put out such glaring calumnies?Are such people fit to sit on a public body? Should we not question their judgement and their honesty? Am I just old-fashioned in assuming that integrity, decency and veracity are the quintessence of public service? These people must have had a most 'difficult and nerve-racking' week.

In view of the hypocrisy and cynicism displayed by management throughout this case, Oscar Wilde's aphorism, 'A cynic is a man who knows the price of everything and the value of nothing', seems particularly apt. Whilst many people the length and breadth of this country believe that Stockport's values must be questioned, I can certainly tell you the price of truth.

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