

**Briefing prepared by the SELSON NHS campaign alliance <sup>1</sup>****Summary**

Pathology services are central to the NHS, with blood and tissue analysis used in 70% of all patient diagnoses. In September 2017, NHS Improvement (NHSI) instructed every acute trust in England's NHS to organise pathology services into 29 networks.<sup>2</sup> Pathology services process diagnostic and screening tests for hospital, community and mental health trusts and for primary care. The proposed 15-year SE London pathology network contract runs from 1/9/20 until 31/8/35 (with an option to renew for 5 years). The contract award date is now January 2020.<sup>3</sup> There has been no public consultation or publicly shared impact and risk assessment of this major service contract change. **We seek to challenge this gap in process.**

**Procurement of pathology services in South East London**

- Kings College Hospital and Guys & St Thomas' NHS Foundation Trusts privatised their pathology services in 2009, setting up a company with Serco – Viapath. Staff are no longer NHS employees. The contract with Viapath expires August 2020.
- The need for Kings and GSTT to retender has determined the timing and contract nature of the SE London pathology network.
- With private Viapath as sitting provider, the network had to go out to competition.
- In other areas, NHS providers have formed an alliance network NHS service.

**Lewisham & Greenwich NHS Trust has stepped away from the SE London network**

- LGT has made a principled decision to seek such an NHS alliance; to continue to provide an NHS pathology service; and to maintain the continuity of clinical pathways between primary and secondary care.
- To comply with NHSI's network structure, LGT is forging an NHS alliance with Barts and the Homerton. NHSI has agreed planning can go ahead on this

**Extent and importance of the SE London Pathology network contract**

- The SE London contract for acute, primary, community and mental health – potentially all 6 CCGs, GSTT, Kings, SLAM – is enormous. The incumbent is a private provider. **There is no NHS bidder**
- The proposed contract went beyond South East London to include Epsom & St Helier and parts of Kent and Sussex. It was for **15 years and worth £2.25 billion:**
- We understand that **Epsom & St Helier have now opted out** and will be partners with the St Georges and Kingston NHS network. Others may have opted out
- If the contract goes ahead, it will extend the outsourcing of a key NHS service to the private sector, including thousands of staff who should be working for the NHS.
- **Good communication between the clinical pathology team and GPs and hospital clinical teams is essential. This is put at risk by the enormous scale of the contract.**

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<sup>1</sup> South East London Save Our NHS (SELSON) is an informal alliance of Keep Our NHS Public campaigners

<sup>2</sup> <https://www.hsj.co.uk/finance-and-efficiency/nhsi-reveals-nationwide-pathology-network-plan/7020530.article>

<sup>3</sup> Planned date for contract award has shifted from October 2019 to January 2020.

<https://www.ourhealthiersel.nhs.uk/Downloads/Meetings/OHSEL%20Board-SPG/May%202019/D%20-%20M1%20PMO%20Highlight%20Reports%20Collated%20DRAFT.pdf> See slide 6 of 8

## No NHS bidder – the three shortlisted bids comprise private/private-FT alliances<sup>4 5</sup>

- **Health Services Laboratories** (a joint venture between the Royal Free London Foundation Trust, University College London Hospitals FT, and The Doctors Laboratory) – **the chair is Lord Carter of Coles** who proposed these networks;
- **Synlab Group**, through one of its UK subsidiaries (an international medical diagnostics provider with laboratory services for human and veterinary medicine);
- Incumbent provider **Viapath** (a joint venture between Guy's and St Thomas' FT, King's College Hospital FT, and Serco).

The detailed briefing pack for potential bidders *was not available for public scrutiny under cover of 'commercial confidentiality'*.

### Three major conflicts of interest:

1. Lord Carter of Coles, author of the recommendations for large pathology networks, is paid chair Health Services Laboratories<sup>6</sup> and is on the board of NHS Improvement<sup>7</sup>
2. Kings and GSTT FTs are **both** on the contract partnership board, are party to the SE London OHSEL's partnership board (now an integrated care system') **and** are partners with SERCO in Viapath, the incumbent provider and one of 3 shortlisted.
3. The six CCGs are partners in the pathology contracting alliance. But they are also a membership organisation of GPs in the boroughs where most GPs use the LGT NHS pathology service. Will the CCGs agree to contract with LGT allowing GPs in Lewisham, Greenwich and Bexley to continue to use their local service?

### Probity

- Serco is the private outsourcing company in Viapath. **Serco has admitted fraudulent charging and false accounting** in its contract with the Probation Service. Serco has agreed to pay a fine of £19m to the Serious Fraud Office.
- **Serco as part of Viapath was overcharging the NHS millions in 2013.**
- Overcharging, inadequate staffing and unsatisfactory performance represent the serious risks prevalent with outsourced public services.<sup>8</sup>

### Impact on acute care, GPs, patients, the SEL NHS and Lewisham & Greenwich NHS Trust

- Kings and GSTT have outsourced pathology to Viapath since 2009 despite known risks of outsourcing. Now the contract is expanding in scope.
- **An impact assessment has not been done, or has not been made available**, on the quality of outsourced pathology and the risks of extending the model.
- There has not been an impact assessment of the risk to other NHS providers if work is taken from them by the new contract – 44% of LGT's pathology funding comes from CCGs contracting with LGT for GP and primary care pathology tests.
- **No public consultation** has taken place.

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<sup>4</sup> Trio of private providers fight for £2.2bn London contract

<https://www.hsj.co.uk/service-design/trio-of-private-providers-fight-for-22bn-london-contract/7024446.article>

<sup>5</sup> <https://lowdownnhs.info/outsourcing/biggest-ever-pathology-contract-will-go-to-a-private-bidder/>

<sup>6</sup> [http://www.hslpathology.com/hsl\\_team/lord-carter-of-coles/](http://www.hslpathology.com/hsl_team/lord-carter-of-coles/)

<sup>7</sup> Private Eye No.1490, 22 February 2019

<sup>8</sup> <https://www.independent.co.uk/news/uk/politics/exclusive-overcharging-by-outsourcing-giant-serco-costs-nhs-millions-9695342.html> 'Outsourcing giant Serco is embroiled in a fresh misuse of public funds scandal' August 2014

## BACKGROUND INFORMATION

### Carter Review, 2008<sup>9</sup>, Carter Reports 2015/16<sup>10</sup>, STPs and NHS Improvement

The Carter Review recommended that NHS pathology services merge into a maximum of three consolidated networks per each of the then 10 Strategic Health Authorities. Later Carter Reports claimed £5bn of annual savings were possible from NHS procurement including pathology. NHS Improvement instructed the 44 Footprint bodies (of which OHSEL is the SE London version) to build into sustainability & transformation plans (STPs) the strategy for 29 merged groupings throughout England.<sup>11</sup> The major motivation behind STPs is to make savings.

### NHS England and Department of Health policy on contracting in the NHS

- The NHS Long Term Plan and briefings from NHS England claimed that they are moving to minimise the damaging impact of privatisation.
- Private procurements on pathology and specialist imaging<sup>12</sup> (**Oxford**: InHealth and **SE London**: Alliance Medical, Kings, GSTT consortium) tell the lie and represent two huge blows to the public NHS.

**Procurement timescale:** Despite little or no public information or discussion, SE London is one of the first to go out to procurement, through a formal notice in the *Official Journal of the European Union* [OJEU] in August 2018. Shortlisting has happened. Contract award is set to take place in January 2020. The service would start September 2020.

### The 'core contracting authority' derives from the SE London Pathology Board

Partners: GSTT, Kings, SLAM, Oxleas, Royal Brompton & Harefield, East Sussex Healthcare trusts, NHS SEL Commissioning Alliance (six SEL CCGs).<sup>13</sup> 'Additional contracting authorities': SW London & St George's Mental Health Trust; Epsom & St Helier's – a huge contract for one organisation in a geographically incoherent area.

### Viapath

- Kings + GSTT have outsourced their pathology services since 2009 to the private-public organisation they set up in partnership with Serco – Viapath.<sup>14</sup>
- Viapath employs the staff involved both inside and outside the hospitals as with subsidiary companies. It is a lead contender as incumbent in SE London and one of three bids.

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<sup>9</sup>[http://webarchive.nationalarchives.gov.uk/20130124044941/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_091984.pdf](http://webarchive.nationalarchives.gov.uk/20130124044941/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_091984.pdf)

<sup>10</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/434202/carter-interim-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/434202/carter-interim-report.pdf)

<sup>11</sup> <https://improvement.nhs.uk/resources/pathology-networks/> Sept 2017 and Sept 2018

<sup>12</sup> <https://www.theguardian.com/society/2019/mar/06/nhs-cancer-centre-loses-scanning-contract-to-private-firm>

<sup>13</sup> This was set up in April 2018 <http://www.lewishamccg.nhs.uk/about-us/Pages/South-East-London-Commissioning-Alliance.aspx>

<sup>14</sup> Viapath – a public-private company partnering Serco with GSTT, Kings and Bedford Hospital. Set up 2009 after Carter Review 2008 – claims to be 'a unique partnership of clinical, scientific and operational expertise, with a mission to transform pathology services in the UK'; and to be a founding member of Association of Independent Pathology Providers (AIPP). The current contract is up and they must either expand or lose their contract.