

Frequently Asked Questions – Viapath TUPE Transfer

Section 1 - Consultation

1. What is the timetable for consultation?

Both GSTT and KCH are currently holding informal discussions with Staff Side and affected RoE staff regarding the proposed TUPE transfer of staff to Viapath.

At GSTT, a Common Interest Group (CIG) has been established. This CIG provides a forum to address key issues, listen to staff concerns and inform and influence the consultation.

At KCH, a Pathology Partnership Meeting is being held weekly to consider similar issues related to the transfer.

Informal discussions with affected staff will continue with further meetings planned. KCH and GSTT will also begin a formal 30 day consultation on the TUPE transfer of RoE staff and both Trusts will be holding a series of further meetings for affected staff with both Staff Side and HR in attendance.

At the end of formal consultation, the outcome will be communicated to staff. This will be followed by further consultation up to the date of transfer, in line with requirements under the Transfer of Undertakings(Protection of Employment Regulations (2006)), “TUPE” legislation (see question 9). It is proposed that the new structure will be implemented and the transfer of staff completed by 1st January 2015.

2. Is this ‘meaningful consultation’ given the Trusts have already taken a view to TUPE transfer staff?

Yes, we are going through a consultation process and it is important that staff engage with this so they are able to shape the outcome and influence arrangements going forward.

Staff have asked about the future of Viapath and the consultation provides an opportunity to share information and address those concerns.

This consultation enables us to listen to staff and address the points raised. The meetings held as a part of this process provide an opportunity for staff to influence the future. The Trusts’ trade union representatives play a critical role and staff should continue to raise issues either directly or via local staff side representatives to ensure their views are considered.

3. Can staff attend meetings held by either GSTT or KCH?

While it may be useful to attend any meetings where Project Pathway is being discussed, King's and GSTT are separate employers each responsible for consulting with their own staff and therefore it is advised that you attend the meetings which are led by your employer.

4. In terms of scope, why is the Department of Infection Research laboratory (CIDR) at GSTT not part of the JV?

This is a joint Trust and KCL research centre focused on clinical trials, evaluating novel diagnostics, infection control research and epidemiology. It does not provide services to patients. It was placed next to the routine diagnostics labs and the clinical teams to foster collaboration and ensure research is translated into practice. Collaborative studies are taking place and we think this model is working well.

Section 2 - Reasons for Change

5. What are the key drivers behind this proposal?

There has been a VAT ruling that affects the way that tax is charged and what can be reclaimed for the provision of services to the NHS. Without changes to the structure of Viapath the new tax rules mean that the Trust would no longer be able to reclaim VAT costs and Viapath would be left with a significant VAT bill. This would increase its costs and could undermine the future viability of the business and investment in the service. A new legal structure will largely offset the impact of the VAT changes and has been agreed with HM Revenue and Customs.

When the joint venture was created in 2009, and also when KCH joined in 2010, it was not possible for staff to retain their NHS pension, which is why the arrangements for seconding staff under the Retention of Employment (RoE) model were established. The Department of Health rules have recently changed so that organisations such as Viapath can now apply for what is known as 'Direction Status' - this enables their staff to access the NHS Pension Scheme. This option was not available in either 2009 or 2010.

6. What are the Trust's views on other alternatives to a TUPE transfer?

Viapath (formerly GSTS) was formed in response to the work of Carter who found that pathology in the NHS was not as effective as it could be or in a position to be able to meet rising expectations of patients and the report recommended the consolidation of pathology laboratories. In order to build on the progress we have made in line with those recommendations we need to continue to combine the positives of both the public and private sector, including entrepreneurial skills, becoming more outward looking with a broader horizon.

In terms of the current wider landscape, we are aware that UCLH, Royal Free and TDL have recently formed a Joint Venture and are planning to build a large shared hub laboratory. These large consolidation projects demonstrate that change is now taking place and we will benefit from the skills and expertise of Viapath to become successful in this more competitive landscape. Both Trusts are committed to the joint venture and remain of the view that this enables investment and given the current market place, also consider that Viapath are best placed to expand the business.

If staff reverted back to working at GSTT and KCH, we would lose the expertise and funding available through this joint venture in selling the business to others which is critical to enable us to engage in a commercial market. It would also mean that Pathology would be subject to the same cost improvement measures as in the rest of the NHS and so lose the ability to invest and develop the service.

In 2009 the joint venture was just Serco and GSTT but since then both the employee base and employment arrangements for Viapath as a whole have developed. Staff from Bedford TUPE transferred into Viapath later in 2009, and KCH joined the joint venture in 2010. Viapath have also appointed direct hire employees to work in all areas of the business, including the laboratories and in logistics and operations. To break up the business would mean a renegotiation of the entire contract with all the financial liabilities that this would incur. In addition to this the staffing model is now far more complex in light of the above, and a straight forward split of the service to maintain current employment arrangements for all affected staff across all areas of the business would not be possible.

In terms of any dual employment or use of honorary contracts, these are not models that are legally recognised in these circumstances. Other than the Retention of Employment model, where TUPE applies it is necessary to transfer staff under those Regulations to protect contractual terms of employment. Additionally through Viapath's successful application of Direction Status RoE staff are able to remain in the NHS Pension Scheme.

Without restructuring, Viapath would face an additional cost of £6m from the annual RoE bill and a further £7m for VAT on purchases of stock, capital equipment and external services. In context, If Viapath had an additional cost of c£13m per annum then there would be no funds left with which to invest back in the business, indeed it would be a risk to the business' survival going forward.

Section 3 - Structure

7. What are Viapath's plans to restructure?

Viapath is restructuring to provide services in a more tax efficient way due to changes in HMRC VAT regulations. As a result of the re-structure, Trust secondees and Viapath staff will TUPE transfer.

The restructure will result in the Viapath workforce being employed by one of three Viapath companies:

- (i) Existing company: **Viapath LLP** will set the strategy of the business, manage relationships with our stakeholders and set objectives for the two operating arms of the business. It will include executive management, corporate shared services, business development, legal, marketing services etc.
- (ii) New company: **Viapath Analytics LLP** will deliver the laboratory service and the scientific expertise for our NHS customers. It will include the majority of laboratory staff and operational management functions
- (iii) New company: **Viapath Services LLP** will provide facilities and support services for our customers. It will include estate and infrastructure management, facilities management, procurement, logistics, IT, LIMS etc

8. How will the restructure affect day to day work and procurement between business sections?

The company structure that Viapath plan to implement is very common in business as it helps clarify trading functions and comply with tax rules. The two subsidiaries (“Services” and “Analytics”) would both be wholly owned by Viapath LLP, so all staff will be working for Viapath and share the brand – the leadership of the company will remain exactly as now. The laboratory staff will all work together in Analytics providing the service. Viapath Services will provide a fully managed laboratory facility. Very little will change at lab level but there will be some strengthening of processes around procurement and equipment fault reporting. Viapath will need to be able to demonstrate a clear legal separation of accountability between Analytics and Services.

9. Will there be any redundancies?

There will be no redundancies as a result of the transfer of staff to Viapath as a consequence of the TUPE transfer.

Section 4 - TUPE

10. What does TUPE mean?

The Transfer of Undertakings (Protection of Employment) Regulations (2006).

The restructure will be covered by the Transfer of Undertakings (Protection of Employment Regulations (2006) (“TUPE”), and as a result all existing contractual employment terms & conditions will be protected.

The Agenda for Change (AfC) structure and any local contractual variations which may apply within each of the Trusts will be carried over as at the date of transfer, with the prevailing pay rates. As a result, staff who transfer will continue to progress up their pay band, just as they would have done within the Trusts, until they reach the top of their AfC band (in accordance with the respective Trust policy current at 31 December 2014).

With Direction Status, RoE transferees' membership of the NHS Pension Scheme will be maintained unless staff choose to opt out of the scheme.

11. What is the scheduled date for TUPE transfer?

The scheduled date for transfer is 1st January 2015.

12. Will a new contract or a letter for staff to sign and agree to TUPE transfer be issued?

Staff will transfer under their existing contracts of employment therefore no new contracts will be issued. However, all staff will receive a letter confirming their transfer.

13. Can staff refuse to transfer, and if so what is the impact of doing this?

Any refusal would amount to a resignation, resulting in the termination of the employment contract which means staff would not be entitled to any compensation payment.

14. If staff choose not to TUPE and therefore resign will they need to work their notice?

If staff resign before the transfer to Viapath, they will need to provide notice in accordance with their employment contract.

If staff resign at the point of transfer, they would not be legally required to work their notice period.

If staff wish to resign after the transfer date contractual notice periods will apply.

If staff do not intend to transfer to Viapath, it's vital that they inform the Trust/Viapath as soon as possible to avoid any negative impact on the Pathology Service and/or patients and to ensure service continuity post transfer.

15. Can staff TUPE transfer to the NHS instead, as Viapath is two thirds NHS owned?

No, although Viapath is jointly owned by two NHS organisations and Serco, it is not an NHS organisation and therefore staff cannot remain NHS Employees.

16. What happens to people currently employed on HPA contracts?

HPA staff initially TUPE transferred from HPA to KCH and were subsequently seconded to GSTS from KCH under the RoE apparatus. They will now TUPE transfer into Viapath from KCH. Following the transfer to KCH they retained their HPA terms and conditions, and those terms and conditions similarly will transfer with them into Viapath

17. How do you determine under TUPE which staff transfer?

All employees assigned to the business that is transferring will transfer with it. In this case this is all the staff that were previously seconded under the Retention of Employment arrangements.

Under TUPE, where certain staff have split job functions, some of which fall within the transferring business and some which do not, consideration is given to the amount of time spent on each activity as well as the nature of the job and core / key tasks.

Section 5 - Terms and Conditions

18. Will staff's continuity of service be recognised?

Yes, all existing contractual terms and conditions will transfer under TUPE and this will include continuity of service.

19. What are contractual terms?

- a. Job Title / Band
- b. Place of Work
- c. Salary including any on-call and unsocial elements
- d. Payment Date - 24th
- e. Continuous and Aggregated Service
- f. Weekly hours of Work
- g. Annual Leave
- h. Notice
- i. Pay progression
- j. Sickness Absence
- k. Maternity, Paternity and Adoption Leave
- l. All contractual policies which applied to individual employees of GSTT or in KCH will transfer with them such as
 - Disciplinary
 - Capability
 - Grievance
 - Whistle blowing

20. What is continuous service?

Continuous service is defined as full-time or part-time employment with the present or any previous NHS Employer. If with more than one NHS employer, there must not have been a break of more than a week (measured Sunday to Saturday) between employments.

21. What is reckonable service?

Reckonable service is service with the NHS used to calculate entitlements to maternity pay, sick pay, redundancy payments and annual leave. The measure of reckonable service differs for each of these benefits. For the purposes of sick pay and redundancy payments, any service without a break of 12 months or more can be considered reckonable. For maternity pay, any service without a break of 3 months or more will be considered reckonable and for annual leave, any whole years of service regardless of any break.

22. Will Viapath have its own Payroll and how will pay be managed post transfer?

The pay date of the 24th of each month will remain. Both Trusts are working with Viapath to ensure a seamless payroll transfer. Bank details will transfer and salaries paid into each employee's existing account on record. If staff wish to change these details from 1st January 2015, they should let Viapath know as soon as possible.

23. Will transferred staff still receive High Cost Allowance (HCA)?

Yes, existing terms and conditions will transfer and this includes the current HCA and the terms of calculation. For the purposes of clarification, future cost of living increases to HCA or changes to the calculation will not transfer.

24. Will staff transferred under TUPE continue to receive future AfC pay changes?

Under TUPE, the AfC structure will be carried over as at the date of transfer, with the prevailing pay rates. Therefore any future changes to AfC will not be applicable. Transferees will continue to progress up the structure on the existing rates on their anniversary of appointment until they reach the top of their AfC Band (in accordance with respective Trust policy current at 31 December 2014).

25. Will staff continue to get incremental pay up the spine points, or pay rises in the future be based on the Viapath's Performance Related Pay format?

Staff will transfer on their existing pay scales and will retain the ability to receive increments in accordance with AFC unless they have reached the top of the pay scale.

Additionally any local arrangements for determining pay progression agreed in accordance with Agenda for Change and implemented by each individual Trust prior to the TUPE will transfer across.

TUPE protects terms at the point of transfer so does not oblige Viapath to apply any nationally agreed NHS future cost of living increases.

26. What happens if you are made redundant after transferring to Viapath? Do the years of service at GSTT or King's count towards your redundancy payment?

The calculation for redundancy payments is based on continuous and reckonable service. All existing contractual terms and conditions will transfer under TUPE.

27. Will entitlements accrued over time transfer, for example additional annual leave after 5 and 10 years and will staff still be able to carry forward five days annual leave?

Yes, all existing terms and conditions will transfer under TUPE including annual leave arrangements, whether this is the GSTT or KCH Annual Leave Policy or KCH Kingsflex and this includes the option to request to buy/sell or carry forward annual leave.

28. What happens to current flexible working arrangements post transfer? Will there be a commitment these can be maintained?

Staff will transfer on their current terms and conditions. Any arrangements for flexible working will be subject to the terms agreed when the arrangements were made and in accordance GSTT Flexible Working Policy or within the KCH Kingsflex principles.

29. What happens to continuity of employment if staff move from Viapath to another NHS Trust after transferring?

As stated above and in accordance with the TUPE regulations, staff will transfer to Viapath with their continuity of service for employment purposes intact.

If staff TUPE transfer back to the NHS in the future and in accordance with the TUPE regulations, the time spent with Viapath will count towards continuous NHS Service.

If staff voluntarily take up employment with another NHS Trust after transfer, the time spent with Viapath will not be counted as continuous NHS Service however both Trust's (KCH and GSTT) have committed that should a staff member be recruited back into a Trust post they will honour this and service will not be affected.

30. What happens if a TUPE transferred staff member subsequently applies for a promotion?

Since Viapath does not operate the AfC framework, any staff promoted within Viapath would move to Viapath's employment terms and conditions. Continuity of service for employment protection purposes would be retained. Viapath have confirmed that RoE staff who participate in the NHS pension scheme would retain membership of this scheme following promotion onto Viapath employment terms and conditions. In addition, employees who take on Viapath employment terms will be able to retain their annual leave entitlement at the point of the change; they will not receive any future increases covered within AfC. In addition, for the 12 months immediately following the change they will retain the right to the AfC redundancy terms.

31. Does Viapath have plans to make changes to contractual terms and conditions?

Viapath has made clear that staff are central to the growth and success of the business and have no plans to dilute terms and conditions of employment.

Viapath will need to attract and retain the best scientists and other staff to deliver its strategic aim to be the leading pathology service provider in the UK. Viapath will be reviewing its employment offering as it wants people to want to work at Viapath, however, there will be no change to terms and conditions without further formal consultation. Through TUPE, contractual terms are protected.

Following any transfer of staff, Viapath will be establishing its own structures to create a mechanism through which it can engage with its staff and union representatives.

Employees transferring from the NHS on AfC terms and conditions would have the option to transfer to Viapath terms if they chose to do so,

32. Can you provide a guarantee that contractual terms will not be changed?

The health economy is facing one of the most demanding financial environments it has ever faced and Viapath is in a position to grow and invest. Whilst there is no guarantee that things will not change, there is a commitment that where change to enhance the service provided to customers and ultimately patients is proposed, formal consultation will take place.

33. Is there an option for staff to move their salary from Agenda for Change to Viapath?

We understand from Viapath that if staff wish to explore this option further they should request an individual meeting with Viapath HR, but this is not part of the consultation. The consultation is dealing specifically with the protection of terms and condition which is afforded to staff in accordance with the TUPE regulations.

Section 6 - Pension

34. What will happen to NHS Pensions?

'Direction status' provides for all current members of the NHS Pension Scheme to continue their membership of the NHS scheme post transfer. Viapath have produced a Pensions Fact Sheet with a supplementary Q&A to address more recent questions raised by staff. These have been made available via the respective Trust's Intranet sites.

35. What happens if you plan to retire after the transfer?

Any application for NHS Pension Scheme retirement benefits should begin three months prior to a planned retirement date. For current members of the Scheme transferring to Viapath on 1 January 2015, application for retirement in the first 3 months of 2015 should begin in good time before the transfer date. Entitlement to NHS Pension Scheme benefits post transfer will continue to be in accordance with the statutory Scheme Regulations. Further advice can be provided by the NHS Pensions Agency.

36. What are the options for pensions within Viapath? Is it an average salary pension arrangement?

Existing members of the NHS Pension Scheme will transfer and remain as members of the NHS Scheme unless they choose to opt out.

Viapath's own pension scheme is a "defined contribution" scheme and Viapath matches employee contributions up to a maximum of 6%. Further information on the pension options within Viapath will be made available during the consultation period.

37. Can Viapath amend the terms of the NHS Pension Scheme in terms of employer / employee contributions (subject to being granted Direction Status?

No, the NHS Pension Scheme is regulated under statute.

38. Can we resign, freeze our NHS pension then re-join?

Pension scheme membership is linked to employment within the NHS or employment with an organisation granted direction status. The option to freeze and re-join the pension scheme will be dependent on a range of individual circumstances. We recommend you seek further advice from the NHS Pensions Agency.

39. Under Direction Status would the NHS pension be open to all staff?

The NHS Pension Scheme under Direction Status, granted to Viapath, will be open only to staff who are currently members of the NHS Pension Scheme and transfer under TUPE. The Direction Status will not permit any new employees to Viapath eligibility to membership of the NHS Pension Scheme.

40. Who will give NHS pension advice for staff once they are employed by Viapath?

As you will remain within the same scheme, external advice sources would remain the same, e.g. <http://www.nhsbsa.uk/2735.aspx>. In house contacts, following the transfer, are currently being determined.

41. Can we be provided with independent advice about our pensions?

Viapath are looking to see what support can be provided.

Section 7 - Salary Sacrifice Schemes and Benefits

42. Will we still have salary sacrifice schemes?

Salary sacrifice schemes are offered by local employers as part of their existing pay arrangements. Viapath are currently exploring options to offer comparable schemes.

43. What will happen to any benefits the Trust currently offers?

A range of benefits that can continue to be provided by the Trusts or where Viapath can provide has been agreed and a benefits log has been made available via the respective Trust's Intranet sites.

44. Will we still have the child care vouchers?

Viapath currently provide a child care voucher scheme for employees and this will be offered to staff who transfer.

45. Will we still get interest free loans for our annual travel pass?

Yes, Viapath currently operates a season ticket loan and this will be extended to RoE employees.

46. Can you confirm the concessions/benefits currently lost under TUPE?

Both Trusts have compiled a list of concessions or non-contractual benefits that can transfer or where Viapath can provide an alternative. Further information regarding this can be found on the respective Trust's Intranet sites.

47. If there is any loss of benefits will there be pay protection for staff?

Both Trust's pay protection policies are relatively narrow in scope and do not cover the majority of staff 'benefits'. It is not anticipated that pay protection will be applicable as a result of this transfer, however, if there is a requirement for Viapath to apply pay protection in the future, this would be done in accordance with the relevant Trust's pay protection policy.

48. Will we have access to the NHS Discounts?

Yes, see benefits log made available via the respective Trust's Intranet sites.

49. Why did the Trusts not wait until it had a final position on benefits before launching the consultation?

Both Trusts are consulting with staff over and above those elements that are provided for by TUPE legislation and which includes non-contractual benefits. The reason that non-contractual benefits and any additional agreements from Viapath to staff have not been finalised at this point is so that staff can give us their views through this process and directly influence what arrangements are put in place post transfer. We are currently reviewing all non-contractual benefits and agreeing those that will be continue to be offered and where applicable what Viapath will provide as alternatives.

50. Will staff be able to maintain key worker status?

Viapath have investigated this and found that general advice cannot be provided because the definition of "Key Worker" and the terms and conditions offered by different schemes vary. Therefore staff will need to discuss any personal circumstances with their current / any potential provider, remembering to inform the provider that you continue to perform work for an organisation that is two thirds owned by the NHS providing a service to NHS patients. The Trust and/or Viapath will be happy to provide relevant information as requested to your provider.

51. Can I keep my parking permit?

At KCH, this will be possible as permits are issued based on a scoring system and any staff working on this site (employee or not) can apply for a parking permit. At GSTT existing permit holders will be allowed continued use. GSTT are presently not accepting any new applications. Viapath are working with the Trust to determine how these arrangements can be managed post transfer

52. Will I still have access to the Trust's day nursery?

Yes. Access to the Trust day Nurseries is not restricted to employees only.

53. Will staff currently living in Trust accommodation remain eligible for this post transfer?

GSTT have addressed this question in its benefits log, which is available on the GSTT Trust's intranet site.

KCH have approached the accommodation team with this question and will respond as soon as we are able. Again we would advise anyone in this situation to request a one to one meeting so we can look at how we address this on an individual level.

54. Will transferred staff still be eligible for a long service award?

GSTT have addressed this question in its benefits log, which is available on the GSTT Trust's intranet site.

KCH is considering this issue and will communicate a response as soon as we are able.

Section 8 - Unions

55. Will Viapath recognise unions?

Viapath has agreed to recognise UNISON, UNITE and the Federation of Clinical Scientists. Discussions have taken place between Viapath and both Chairs of Staff Side and Viapath are committed to agreeing a Memorandum of Understanding about what a recognition arrangement will look like post transfer

56. Will the union still be able to represent us?

The policies being transferred with staff provide for representation at all formal hearings so in addition to the terms of a recognition arrangement, staff will be entitled to representation at formal meetings post transfer.

Section 9 - Viapath

57. Given the Carter recommendations have not happened yet why does the Trust think there will be a market for Viapath to respond to?

We accept that the consolidation of pathology laboratories did not occur as fast as expected in the Carter report but we are beginning to see changes now. For example, Genomics England will be consulting on reducing the number of

genetics laboratories from about 17 to between 5 -7 Regional Genetics Hubs. Viapath, KCH, GSTT and the BRC, with partners, have already submitted a bid to become an NHS Genomics Medicine Centre involved in delivering the 100k genome project and we will also be applying to become one of these new Regional Genetics Hub.

We are also aware that UCLH, Royal Free and TDL have recently formed a Joint Venture and are planning to build a large shared hub laboratory. These large consolidation projects demonstrate that change is now taking place and we will benefit from the skills and expertise of Viapath to become successful in this more competitive landscape.

58. What is Viapath approach to 24/7 working?

The TUPE transfer does not impact on Viapath's approach to extended working. Irrespective of what happens within Viapath, clinical services are changing and commissioners require health care to be provided over an increasing number of hours each day and in some cases 24/7. It is right that health care providers should respond to patient need in this way. Viapath need to respond to this in the same way as other departments and services within GSTT and KCH. In the event that the needs of the service require a different approach to staffing or a change in working arrangements, Viapath will consult with relevant staff, in the same way the Trusts would have done.

59. Since the workload has gone up by 40% (as KCH has taken on work from the PRUH) why have the staffing levels not gone up?

Viapath have confirmed that they have provided extra staff and equipment to accommodate the additional specialist work coming from the PRUH. They recognise this new workload is greater than expected initially and are taking further steps to ensure the workload is manageable. In addition to extra staff, Viapath are also planning to address the estates problems at Denmark Hill and have approved significant capital investment in new equipment to address the pressure.

60. Will we be required to work at a different site?

It is not anticipated that staff will be required to work on a different site. If this changes in the future, there would be a requirement for Viapath to formally consult with staff on any changes to location.

61. The Viapath Staff Survey records a low score for employee engagement. How will this change?

It is fair to say that the first few years of the joint venture were not easy but the last 18 to 24 months have seen a marked improvement in employee engagement and Viapath is making progress with a focus on quality. Viapath has put in place innovation seed funding and currently have around 100 people undertaking scientific learning and development. Viapath have made a surplus in the last financial year which is already being reinvested into the business and its people. Viapath recognises the need to be able to attract and retain the best staff in order to grow the organisation and is committed to providing the best service possible for customer, patients and employees.

62. If the Trusts continue to cut costs will that pressure be transferred to Viapath?

The pressure in the financial system in the whole of the NHS has increased over the last few years. If Viapath had not been created and pathology services had remained with the Trusts, then it is highly likely the service would have had to have made significant savings. The rationale behind the creation of Viapath was to develop a business that could provide a surplus for on-going investment into Pathology services.

Viapath has earned enough to make a surplus and it is not subject to the either Trusts' cost improvement plans.

63. What if the current CEO leaves and we are left with different management with a different vision?

Whilst we cannot remove all uncertainties, stability is provided through the Viapath Boards, given that Viapath is two thirds NHS owned and able to influence the way the company is run.

64. What if Viapath goes out of business?

GSTT, KCH and Serco are committed to making the business a success and do not envisage that scenario. In the event that work performed by Viapath is at some future point transferred to the NHS or any other independent provider company, the employees that are involved in the delivery of the services in question would transfer to the new provider.

Section 10 - 2020 and the end of the contract

65. The JV is only for 10 years, what happens at the end of that?

The contract will be up for renewal in 2020. If Viapath was not awarded the contract following this and it went to an alternative provider, then TUPE would apply in the same way it is now.

66. If I am transferred to another provider at the end of the Viapath contract what will happen to my terms and conditions?

The current contract will expire in 2020. At this point, unless a decision is made to bring the service in house, the Trusts will be required to re-tender for the provision of their pathology services. TUPE provisions will apply and you will transfer on your terms and conditions of employment in place at that time.

67. What will happen post 2020 (i.e. at the end of the current contract)?

It is not possible to provide any reassurances regarding the future of Pathology Services post 2020 (e.g. the Trusts cannot commit to services returning “in-house” at the end of the current contract). Both Trusts will continue to monitor and review Viapath’s performance up to the end of the current contract, and will consider all available options for the future of Pathology Services when necessary to do so.

68. Will Viapath’s people performance be considered when reviewing the contract (i.e. staff satisfaction, etc.), as opposed to purely business issues / Can staffing concerns be built in as part of the performance KPIs?

Viapath’s employment and employee strategies are of keen interest to the Viapath Board (which includes key KCH and GSTT senior management). Viapath plans to implement an HR system in 2015 which will make it possible for the Board to receive and monitor data on key metrics such as employee turnover and vacancy levels.

Section 11 - External Partners / Training and Research / Committee Attendance

69. Will the relationship we have with King’s College London remain?

GSTT and King’s will look to support this and work with Viapath and KCL to continue this going forward.

70. Will we still be able to apply for research funding, and run research grants through the Trust and could we use honorary contracts with Trust to facilitate this?

Viapath are working with key stake holders to ensure that suitable arrangements are in place going forward regarding future research grants and where required honorary contracts can be provided as appropriate.

71. Will staff continue to have access to CPD money for training and development?

There are on-going discussions with Viapath with regard to this. In terms of ongoing access to Trust run courses this is managed through an agreed Services Agreement between the Trusts and Viapath. This will continue to be reviewed with Viapath and will be for them to decide what they provide themselves and what they may continue to look to the Trusts to provide.

72. What happens with staff activities in the Trust i.e. those staff that participate in multidisciplinary meetings in the Trust and attend Clinics to give advice about specialised tests, will this be able to continue?

There will be no change to this aspect of Viapath's relationship as a consequence of the TUPE transfer. Staff working in Viapath that are currently actively engaged in Trust-wide governance and multi-disciplinary working will continue this post transfer as / where required.

73. What happens if staff sit on trust committees? Can the Trust confirm that this will no longer be tenable?

There are certain Trust committees where membership is restricted to staff employed by the Trust and this would therefore exclude staff who transfer to Viapath. We are currently assessing the impact of this and will communicate directly to the individual staff affected.

74. How will we complete our statutory and mandatory training?

This is currently being discussed with the option of Viapath providing this training in-house. Further details will be made available in due course.

75. Will the relationship with the Medical School remain unaffected by the transfer?

Viapath have been in talks with the Medical School i.e. the KCL library and their facilities, and they have currently been informed that existing arrangement will remain unchanged.

76. Will Viapath recognise inflationary pay increases in line with any NHS increase?

No, staff that transfer will continue to progress through the increments on the existing rates until they reach the top of their AfC Band but will not receive an inflation matching increase awarded after the transfer date Viapath carries out an annual salary review in line with market conditions, business affordability and individual performance and will apply this policy to employees who are at the top of their AfC pay band.

77. Will the Viapath appraisal scheme be used for staff development as RoE staff that transfer will not be on performance related pay?

Yes the Viapath appraisal scheme i.e. Performance Planning and Review (PPR) process will apply to all staff and this is the process through which employees and managers discuss training and personal development needs.

Only for those employees that are subject to performance related pay will the individual employee's ratings be taken into account in determining any potential salary increase.